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GEORGE INNES

Engraved from an Original Picture in the Possession of the Society of Antiquaries Edinburgh

TRACTS

ILLUSTRATIVE
OF THE
TRADITIONARY & HISTORICAL
ANTIQUITIES
OF
SCOTLAND.



PUBLISHED BY J. STILLIE,

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1836.



A
VINDICATION
OF
ELIZABETH MORE,
FROM THE
IMPUTATION OF BEING A CONCUBINE;
AND
HER CHILDREN,
FROM THE
TACHE OF BASTARDY:

CONFUTING
THE CRITICAL OBSERVATIONS OF THE PUBLISHER OF THE CARTA
AUTHENTICA, AND OF SOME OTHER LATE WRITERS.

By RICHARD HAY, OF DRUMBOOTE, C. R.

In the body of this Book, and the Appendix subjoined, there are several ancient and valuable CHARTERS, which serve to illustrate the Origin and Descent of the most considerable FAMILIES in SCOTLAND.

EDINBURGH:

PRINTED BY WILLIAM ADAMS, JUNIOR.

SOLD BY THE BOOKSELLERS OF EDINBURGH, GLASGOW,
AND ABERDEEN.

MDCCXXIII.

WILLIAM ADAMS JUNIOR

ELIZABETH

EDINBURGH

BY RICHARD

EDINBURGH

PRINTED BY WILLIAM ADAMS JUNIOR

SOLD BY THE BOOKSELLERS OF EDINBURGH AND GLASGOW

1801

TO

THE RIGHT HONOURABLE

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SIR HEW DALRYMPLE,

OF NORTH BERWICK, BARONET,

LORD PRESIDENT OF THE SESSION, &c.

MY LORD,

OUR ancient historians, who were not fully acquainted with King Robert II.'s affairs and concerns, have charged, with a great deal of confidence and boldness, Elizabeth More with having been his concubine; and her son, John Lord Kyle, one of the best Princes that ever sate on the throne, with having been unlawfully begotten. Mr. Innes and some late writers have used their utmost endeavours to remove, by their pamphlets, those black, heavy, and monstrous calumnies formerly thrown upon them, but without success: for, in fixing the date and time of the king's marriage with Elizabeth More, as I have set down, all that they allege against Buchanan and his confederates, neither removes those prejudices upon which the world have laid so long stress, nor is of any moment to the purpose. Whereupon Mr. Sage, whom many admire and adore, hath laid down a new scheme, which is inconsistent with the general council of Lateran, held in 1215, and the 65th canon of a national council of our country, assembled at Holyrood House in 1227. In which year, Pope Honorius III. dying, Gregory IX. succeeded to the chair of St. Peter,

In the one and the other, the private marriage is condemned, as null and unlawful ; and the child procreate, *constante occulto et clandestino matrimonio*, is declared spurious. Upon which ground, Alexander Stuart, Abbot of Scoon and Inchaffray, son to Alexander, Duke of Albany, brother to King James III. and Lady Katharine Saintclair, daughter to William, Earl of Orkney and Cathness, Lord High Chancellor, Chamberlain, Admiral and Pannetier of Scotland ; was declared bastard, in a Parliament held at Edinburgh, the 13th of November 1516, and secluded from the succession and dignities of Duke Alexander, his father ; who had been divorced from Orkney's daughter by John Otterburn, official of Lothian, in March 1477, because the Duke and Lady Katharine were in the forbidden degrees, *intra gradus a jure prohibitos*, and had been joined quietly and privately in marriage, *sine trina denunciatione, solemniter in ecclesia praemissa, ante conjunctionem* ; without any proclamations or solemnities ; against the canons and decrees of the church, and the laws, customs, and constitutions of the realm.

The palpable mistakes of those late famous writers, have occasioned this book ; wherein I vindicate Robert III. and his mother, from the false and scandalous aspersions they have been loaded with, by such clear evidences and reasons, drawn from authentic papers and original records, as, I think, any impartial and judicious man must allow to be sufficient for conviction : and the deceast Sir James Dalrymple of Borthwick, Baronet, who hath acquired an immortal reputation by his collections, published in 1705 ; from the restless malice, heavy censures,

weak and unseasonable attacks of Mr. Sage, without any manner of provocation given him.

Your Lordship's noble ancestors and family having received many distinguishing marks of favour from our glorious monarchs ; this work, how mean soever it be in the performance, yet, upon account of the subject and design, will certainly be acceptable to you.

For James de Dalrymple, son to Malcolm, who gave over the half of that barony of Dalrymple to Sir John Kennedy of Donnonure, as I have noticed, p. 18, was a great favourite to King Robert III., and is witness to a charter of confirmation of the said barony, granted by that Prince to Sir James Kennedy, and Lady Mary Stuart, his daughter, designed *sponsae suae*, the 27th of January 1405.* He left two sons, Robert de Dalrymple of Camraggan, Laucht, and Dalbane, in the county of Carrick, sheriffdom of Ayr ; and James de Dalrymple of Boloun, Pilmure, Unnerboltoun, Pelbuth, and Inglesfield, in the sheriffdom of Edinburgh, and constabulary of Haddingtoun. Which lands he obtained of his Majesty, for his eminent and remarkable services done to the Crown whilst he was ambassador towards Philip Duke of Burgundy in 1449, and during his negotiations elsewhere, as the charter, dated at Edinburgh, 12 *die mensis Augusti, anno 1459, et Regni sui 23*, proports : *Pro suo fideli servitio, nobis impenso et impendendo ; et signanter, pro suis magnis laboribus, et gratuitis servitiis, tam in partibus ultra-marinis, quam in Regno*

* Carta 126, Jacobi II. Fol. R. 77.

nostro gratissime factis. Robert de Dalrymple was succeeded in his lands of Camraggan by his son John, upon his own resignation at Stirling, *decimo die mensis Augusti, anno Regni Jacobi II. 4to.* made in his son's favours, and his lady's, named Joneta; and in his lands of Laucht and Dalbane, by his grandchild John de Dalrymple: As appears by a charter of James III., Num. 71, l. 8, dated at Edinburgh, *4to. die mensis Julii, anno 1473.* As his brother James was in the barony of Boltoun, Pilmure, &c. by his son John; whose only daughter, Mirabella de Dalrymple, spouse to Thomas Saintclair, had a grant of the lands of Gosford, in the sheriffdom of Edinburgh, constabulary of Haddingtoun, from King James II. the 28th of January 1458: as is clear from the 53d charter, lib. 6, of our records, fol. v. 29.

John de Dalrymple of Camraggan, grandchild to Robert de Dalrymple, had a confirmation of those lands granted to him and his lady, Elizabeth de Dalrymple, by King James IV. 1498. His son and successor, Duncan de Dalrymple of Laucht, had a new gift of the said lands of Camraggan from King James V. *anno 1529, et regni sui 7.* He left, by his Lady Elizabeth Kennedy, Janet de Dalrymple, upon whom he settled the lands of Camraggan; and William de Dalrymple of Laucht, in whose person the two divided estates were again united and joined into one body under Queen Mary, by her 78th charter, l. 21. Which charter is conceived in the most obliging terms can be imagined, for evidencing that unfortunate Princess her esteem and regard for a trusty and faithful subject.

I'm afraid I should be too prolix and tedious if I should pursue what marks of honour our Kings have conferred on their successors for a long tract of years : Yet I cannot but remark, that King Charles II. soon after his happy restauration, named my Lord Viscount of Stair, your noble father, Lord President of the Supreme Civil Judicatory of our nation ; to whom your lordship, heir of his extraordinary abilities and virtues, was nominate immediate successor. Your brother, John Earl of Stair, was constitute one of the principal Secretaries of State ; which office he discharged with the universal approbation of all men. His son, the present Earl, representative of your honourable family, having behaved with the utmost bravery at Stenkirk, and in all the daring actions and amazing victories that our bold and successful troops won in Flanders over the formidable French armies at Ramillies, Oudenarde, Tannier, and Doway, was advanced to be a lieutenant-general, Lord of the Bed-chamber, one of his Majesty's most Honourable Privy Council, and Knight of the most noble order of St. Andrew, and employed in the most solemn embassies to the most Christian King and the northern crowns. Sir David Dalrymple of Hailes, Baronet, a gentleman of great integrity and of a sound judgment, was promoted to be Lord Advocate by Queen Anne, who had a particular esteem for Sir James Dalrymple of Borthwick, your brother, a person of incomparable parts ; to whom I acknowledge publicly I owe a great deal, for his kind concern in my affairs in the most troublesome and difficult times that are recorded in history.

May your posterity and theirs, still increasing in favour and virtue, be loaded with all the glorious marks of honour and distinction that can be bestowed by his present Majesty and his illustrious successors upon their most deserving subjects. Those are, and shall be, the earnest and constant wishes of,

MY LORD,

YOUR LORDSHIP'S

most humble,

most obedient,

and most devoted Servant,

RICHARD HAY of *Drumboote, C. R.*

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A
VINDICATION
OF
ELIZABETH MORE,

FROM THE
IMPUTATION OF BEING A CONCUBINE, &c.

It is plain, and beyond all controversy, that Robert Steward of Scotland, was lawfully married to Elizabeth More, daughter to Rowallan, after he had purchased a dispensation from Avignon; yet the several calculations made by Messrs Innes, Gray, Sage, and Hearne, concerning the precise time at which the marriage was solemnized and consummate, cannot be allowed, otherwise John, Walter, Robert, and Alexander, their children, behoved to have been notorious bastards, and only legitimate *virtute supervenientis matrimonii*. Which blunders are as injurious to the illustrious race of our kings, as the scandalous accounts we have of his marriage, from the continuators or abbreviators of Fordun, Major, Bremon Domat, Boethius, Lesly, Buchanan, Adam Abel, and other writers, who have followed one another blindly, without great variation, in relating that fabulous story. The reason is obvious:

Robert Duke of Albany, third son to King Robert II. died, according to all our historians, the 3d day of September 1419, in the the castle of Stirling, having attained the 81st year of his age, (*octagenarius et ultra*) and so behoved to be born in 1338; for, subtracting 81 from 1419, there remains 1338; Walter, an elder brother, behoved to have been born in 1337; and John Lord Kyle, in 1336, as Alexander, the youngest, in 1339: and so all four behoved to have been born *extra matrimonium*, since there was no regular marriage before 1339 or 1340. This computation, then, cannot be admitted, otherwise they had been debarred from their father's succession and the crown, by our laws and constitutions of Scotland.

For, in an old manuscript of our *Regiam Majestatem*,* transcribed by Thomas Finlayson, the 17th day of April, in 1559, chap. 48, it is said, *That he that is air is no bastard, and he that is gottin without matrimony, cannot be air.*

Sir John Skene of Curriehill, Lord Register, who hath followed this manuscript as to the substance, in his Scottish Edition, printed at Edinburgh in 1609, chap. 50. art. 1, hath thus: *Ane bastard may succeed to na man, as an lawfull air; likeas na man, not gottin in lawfull marriage, may be an lawfull air.*

And to make us understand distinctly what bairns or children are lawful, he starts this question, chap. 51, *Gif ane bairn is gottin and born betwix ane man and ane woman, befor lawfull marriage betwix them compleit, gif that bairn is lawfull or not; it being of veritie, that the father of the bairn thereafter marries, and takes to his law-*

* This valuable piece of antiquity, belonging to Mr. John Cross, Keeper of the Registers, was, in a very friendly and generous manner, communicated by him to me, with several other curious Charters.

full wife the mother of the samyne bairn ? To which it is answered,

Art. 2, *Albeit the bairn gottin and born, as said is, be the common civil law of the Romans, and the canon and pontifical law, is lawfull ; nevertheless, conform to the law of the realm, he may no ways be suffered or heard to claim any heritage as lawfull heir.*

In the old manuscript which I have perused and mentioned, the case proposed hath reference to Maganus and his brother, who pretended to a third part of a knight's fee, as his right ; yet being a bastard, born before the matrimony made, was found to have none : the matter being referred to the bishop, (for the decision of the point of bastardy regarded the Spiritual or Ecclesiastical Court), there arose a difficulty, viz. *To know, whether or not he that had espoused the mother, the children begottin befor the matrimony were lawfull airs, or not, fra that matrimony was afterwards fulfilled ? Answer to that, I say, after Law Canon and the Law of Rome, sic lawfull sonnys and airs nevertheless, after the law of the land and the custom of ye Kinryk, na way, as air to the heritage, he may succeed.*

All what's above is expressed more lively by Skene, in his Latin Edition of our *Regiam Majestatem* : For,

Lib. 2, cap. 50, art. 1, he tells us plainly, That *nullus bastardus est haeres legitimus, nec aliquis qui ex legitimo matrimonio non est, potest esse haeres.* And in his annotations, he adds, *Liberi naturales, sive bastardi, non admittuntur ad successionem patris ; sed tamen sunt alendi a legitimis fratribus vel sororibus, secundum mensuram facultatum, et ad arbitrium boni viri.*

And lib. 2, cap. 51, which hath for title, *Qui Filii sunt legitimi ?*

Art. 1, *Circa hoc orta est quaestio, si quis, antequam pater matrem ejus desponsaverit, fuerit genitus et natus,*

utrum talis filius sit haeres legitimus, cum postea pater ille matrem ipsius desponsaverit ?

Art. 2, *Et quidem licet, secundum canones et leges Romanas, talis filius sit haeres legitimus.*

Art. 3, *Tamen secundum jus et consuetudinem regni, nullomodo in hæreditatem, tanquam haeres, sustineri potest, nec hæreditatem petere.*

So that notwithstanding a child begotten in fornication, is legitimate by the subsequent marriage, and admitted to succeed as lawful heir, by the canon and common law, *quia filii non debent sustinere jacturam, cum parentes eorum publice, et sine contradictione ecclesiae inter se contraxisse noscantur*; yet according to our custom and law, he has no right to his father's inheritance: *Tamen secundum jus et consuetudinem regni, nullomodo in hæreditatem, tanquam hæres, sustineri potest, nec hæreditatem petere.*

This part of our *Regiam Majestatem*, cited above, gives a true light to the controversy; for if King Robert had not married Elizabeth More before 1339 or 1340, as Innes, Gray, and Hearne firmly believe, not only his children could not have been preferred to the lawful issue of Queen Euphame in the succession, but they could not have had any just right or title to the crown, or to their father's personal estate, according to the construction of our laws; lib. 2, cap. 50, art. 1, and lib. 2, cap. 51, art. 2 and 3.

Nevertheless, John Earl of Carrick was owned publicly, and acknowledged unanimously, by the three estates convened at Scoon,* the 27th of March 1371, for eldest

* Scoon was of old a noble Abbey of canons regular of St. Augustine, brought from St. Oswald of Nostell in England. It was erected by King Alexander I. in 1114, and dedicate to the Holy Trinity and St. Michael the Archangel. It stands in Gowrie, on the North-side of Tay, a mile above Perth, and was the place where our kings were accustomed to be crowned. Here was kept the

lawful son and undoubted heir to King Robert II. as appears by an authentic act kept in the lower house, amongst the king's records, whereof I shall give a full and faithful copy, from the original, in the Appendix, No. I.

And accordingly, in 1390, some few months after his father was summoned to pay his great debt to nature, he was called to succeed, and confirmed King the 14th of August, under the name of Robert III. (the name of John being ominous) in presence of the whole Peers and Barons of the nation, who could not but have understood our ancient and established laws : *Tradito igitur sepulturae corpore gloriosissimi Roberti II. et Regno sub tutela gubernatoris, filii viz. sui secundogeniti, comisso, in sequenti vigilia assumptionis nostrae dominae, die viz. dominica, Anno Domini 1390, Johannes primogenitus Regis defuncti, Comes de Carrick, apud Sconam Regio more Coronatus est, ubi, de consensu trium statuum, vocatus est Rex Robertus Tertius. Codex Hayanus, lib. 35, Capitulo Primo.*

Now, it is not consistent with reason, that the states should have approven his right to the crown and to the realm, if his title had not been indisputable; that all things should have past with a great deal of peace and tranquillity at his glorious coronation, if any wrong or prejudice had been done to the Earl of Strathern, whose relations were both numerous and powerful: And if his mother had been privately married in 1335 or 1336, and only regularly in 1337 or 1338, according to Mr. Sage's wild conjectures, there should not have happened some hot debate concerning the succession, since there would have been a lawful ground for quarrelling the Earl of

Fatal Stone, till such time as it was transported to Westminster by Edward Langshanks. The house and church were demolished by the townsmen of Dundee and Perth, or burnt to ashes, in 1559, on Monday the 27th of June.

Carrick's claim, as being *extra justas nuptias procreatus ex muliere* ; which is the common notion we have of a bastard.

There being then no suit of law before the spiritual court or the Lord Chief Justice, upon account of his birth, which would have made a prodigious noise, and come to the ears and knowledge of our writers ; John Earl of Carrick being declared eldest son and righteous heir of blood to King Robert, at Scoon, in 1371, by a solemn act and instrument, to which Queen Euphame, and her son, David Earl of Strathern, appends their seals ; and after his father was put in his grave, being installed and set on his royal throne, and crowned without any disorder or disturbance, notwithstanding he was an unactive and weak prince, and that the weight of the government remained upon his brother, Robert Earl of Fife and Monteth : I must be allowed to conclude, against Innes, Gray, Hearne, and Sage, who have attempted to vindicate Robert III. from the tache of bastardy, that Robert Stuart was legally and canonically joined in marriage with Elizabeth More long before the term they have condescended on, that is to say, in 1334 ; otherwise he could not have succeeded his father in his honours or fortune, according to the 50th chap. of our authentic laws, art. 1, and 51st chap. art. 3, lib. 2.

We have a plain confirmation of this in the royal records of King James II., fol. r. 69, num. 118, lib. 4 ; George Creighton of Cairns, Earl of Cathness and Admiral of Scotland, had a natural daughter by his lady, the Countess of Cathness, before they were married together : After their marriage, the natural daughter was neither admitted to succeed to her father and mother as heir in the lands of Barntoun, although they were granted to the lawful heirs whatsoever ; nor was she naturalized *vir-*

tute supervenientis matrimonii, but constantly called *filia naturalis*, notwithstanding the subsequent marriage, and was only provided to the sum of 300 merks for her portion and subsistence; according to what is said before, *fili naturales non admittuntur ad successionem patris, sed tamen sunt alendi*. The charter, proving clearly the constant law and custom of our country, I shall set it down as it is found in the registers.

CARTA JACOBI II. REGIS, DE TERRIS DE BARNTOUN,
GEORGIO COMITI DE CATHNESS.

JACOBUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, clericis et laicis, Salutem: Sciatis nos dedisse, concessisse, et hac praesenti carta nostra confirmasse, dilecto consanguineo nostro Georgio Comiti de Cathness, et dilectae consanguineae nostrae Jonetae Comitissae de Cathness, sponsae suae, omnes et singulas terras de Barntoun, cum pertinentiis, jacent. infra vicecomitatum nostrum de Edinburgh. Quae quidem terrae, cum pertinentiis, fuerunt dictorum Georgii et Jonetae hereditarie, et quas terras de Barntoun, dicti Georgius et Joneta, non vi aut metu ducti—in manus nostras, apud civitatem Sancti Andreae, personaliter, per fustem et baculum sursum reddiderunt—. *Tenend. et Habend.* dictas terras de Barntoun, cum pertinentiis, dictis Georgio et Jonetae sponsae suae, et eorundem alteri diutius viventi, et haeredibus inter ipsos legitimè procreatis seu procreandis; quibus forte deficientibus, Jonetae, filiae naturali dictorum Georgii et Jonetae, et haeredibus suis, de nobis, haeredibus et successoribus nostris, in feodo et haereditate in perpetuum, semper et quousque dictus Georgius Comes de Cathness, aut sui assignati

Comites de Cathness, persolverit seu persolverint praedictae Jonetae filiae suae naturali, uno die, inter Solis ortum et ejusdem occasum, in Ecclesia parochiali B. Ægidii, burgi nostri de Edinburgh, super summo Altare ejusdem, summam trecentarum mercarum usualis monetae Regni nostri: Ita quod, facta solutione praedictae summae sibi Jonetae, supradictae terrae de Barntoun, cum pertinentiis, ab ipsa Joneta filia naturali dictorum Georgii et Jonetae, praedicto Georgio Comiti de Cathness, et suis assignatis Comitibus de Cathness, integre et libere reverrantur, per omnes rectas metas suas antiquas et divisas—et adeo libere et quiete, sicut dictus Georgius et Joneta, aut aliquis predecessorum suorum, praenominatas terras, cum pertinentiis, de nobis aut predecessoribus nostris, ante-dictam resignationem nobis inde factam, liberius tenuerunt seu possiderunt, tenent seu possident. In cujus rei testimonium, praesenti Cartae nostrae magnum Sigillum nostrum apponi praecepimus; testibus reverendo in Christo patre Jacobo Episcopo Sancti Andreae, consanguineo nostro carissimo; Willielmo domino Creichton, nostro Cancellario et consanguineo praedilecto; dilectis consanguineis nostris, Andrea domino le Gray, magistro hospitii nostri; Johanne domino le Lyndesay de Byres; magistro Jacobo Lyndesay, praeposito ecclesiae collegiatae de Lyncludan, nostri privati sigilli custode; Alexandro de Nairn, computorum nostrorum Rotulatore; et magistro Georgio de Schoriswood, Rectore de Cultre, Clerico nostro. Apud Strivelyne, duodecimo die mensis Januarii, Anno Domini 1452, et Regni nostri, decimo-sexto.

It appears, then, from those principles which I have already laid down, that the child procreate and begot before the marriage lawfully accomplished, was excluded

by our laws and custom from the succession, and consequently could not have been admitted to assume the unprofitable title of *righteous heir*: Yet John Lord Kyle, afterwards Earl of Carrick, is constantly found in all grants, under the designation of *eldest son* and *undoubted heir* to the Steward, *primogenitus et haeres*, before his father was called to direct and guide the helm of the state; and after he had assumed the government, he is named in all public writings, *eldest son* and *lineal successor* to King Robert, Earl of Carrick, and Steward of Scotland. Those names justify sufficiently that he was of a lawful issue, and that his mother was regularly married to his father after the dispensation had been brought from Avignon in 1334; which year agreeth exactly with the most faithful account we can reasonably afford of his age: For King David being allowed to return to Scotland in 1351, to work his delivery from his long restraint and captivity abroad, John Lord Kyle, eldest son and heir to the Steward of Scotland, was appointed to remain pledge, if the treaty had taken effect, till the first payment of the sum proposed for the King's ransom should be gathered and fully discharged; at which time he behoved to be at least about sixteen years of age: Moreover, we are informed from our histories, that he entered Annandale at the head of a strong army in 1355, regained the lost places of importance, wrought such wonders by his courage and conduct, that he recovered in a few weeks the whole country from the English, whilst David II. was confined and detained prisoner at Windsor. All which, supposing him at least of twenty-one years of age, is a sensible and convincing argument that his mother was lawfully married in 1334, and that he himself was no bastard: For Buchanan, speaking of that expedition, p. 304, names him simply, *Johannes Stuartus, Proregis*

Filius; and Bowmaker, *Joannes Stuart, Filius Guardiani, Dominus de Kyle, et postea, Comes de Carrick*, lib. 31, cap. 13.* Which designations agree exactly with those mentioned in the following charter.

CONFIRMATIO OMNIUM TERRARUM ET ECCLESiarUM DE
PASSELET, EX CARTUL. PASSELET. P. 210.†

OMNIBUS hanc cartam visuris vel audituris, Robertus Senescallus Scotiae, Salutem. Sciatis nos, ob reverentiam domini nostri Jesu Christi, beatissimae Virginis Mariae, beati Jacobi Apostoli, Sancti Mirini ac omnium Sanctorum, et pro salute animae nostrae, et animarum omnium antecessorum et successorum nostrorum, ratificasse, approbasse, et in perpetuum confirmasse, religiosis viris Abbati et Conventui Monasterii de Passeleto, ibidem Deo servientibus et in perpetuum servituris; in inviolabilem, puram et perpetuam elemosinam, omnes donationes, concessionones, confirmationes et infeodationes, quas antecessores nostri eisdem religiosis viris caritative contulerunt. Et ut voluntatis nostrae lucidius illucescat intentio, ac brachii violentia saecularis in persequendo, ac cartas eorundem virorum religiosorum sinistro eventu exponendo, tempora non distinguendo, desistat et tabescat; prae-

* Notwithstanding that Buchanan, p. 315, calls William Douglas Lord Nithsdale, son to Archibald Lord Galloway, *Filius Nothus*; and Fordun's continuator, lib. 34, cap. 8, names the same *Filius Naturalis*; which epithets they would certainly have bestowed on the Lord Kyle, if they had really believed him to have been a bastard.

† The chartulary of Paisley, extant in my library, contains the several deeds granted to that monastery, from the first foundation to Queen Mary's time. 'Tis a large folio, writ on paper, in glorious characters. My Lord Dundonald hath a copy thereof in 4to. yet not so full and ample as mine, transcribed a little before the Reformation.

nominatis viris religiosis, in puram et perpetuam elemosinam, iterando concedimus et damus, viz. totales terras de Aldhouse, de Arclistoun, de Insula Monachorum, inter Kart et Griff, de Fulton, de Drumgrane, de Gramys, de Auchingowan Monachorum; terram inter Aldpatrick et Espadare, sicut Aldpatrick descendit in Kart Lochwynnok, et Espadar descendit in terram Monachorum jacentem inter le Blacklyn et Kart de Passeleto; terram de Dalmoulyn, Kirklandholme, et terram de Monkton; unâ cum duabus celdris farinae de tenemento de Inglishtoun, dimidiam marcam argenti de Porterfield, juxta Renfrew; liberum servitium, wardam et relevium de Ingliston, tres marcas annui redditus de Adamtoun; cum omnimodis libertatibus, commoditatibus, aisiamentis et justis pertinentiis, tam non nominatis quam nominatis, tam sub terra quam supra terram, in omnibus et per omnia ad dictas terras, cum pertinentiis, spectantibus; et annuos redditus, infra viz. Baronias nostras de Renfrew et de Kyle, cum libertate liberae Baroniae, absque retinemento pacifice possidendos. Eisdem etiam viros religiosos, ex gratiae nostrae ferventis abundantia, ab omnimodis servitiis saecularibus, auxiliis, exercitibus, captiionibus, impositionibus, sectis curiae, exactionibus, consuetudinibus ac demandis quibuscunque eximimus, eruimus, liberamus. In cujus rei testimonium, Sigillum nostrum praesentibus est appensum, apud Cluny, vicesimo die mensis Julii, Anno Domini 1361. Testibus Johanne Senescallo, domino de Kyle, primogenito nostro et haerede; Roberto Senescallo, domino de Fyfe, filio nostro dilecto; Johanne de Ross, Stephano de Ross, Willielmo de Lyndesay, Johanne de Balcasky, et multis aliis.

CARTA ROBERTI COMITIS DE STRATHERN, ET JOHANNIS
DOMINI DE KYLE, FACTA MONACHIS DE PASSELET,
P. 127, CART. PASSELET.

OMNIBUS hanc cartam visuris vel audituris, Robertus Senescallus Scotiae, Comes de Strathern, et Johannes Senescallus, primogenitus et haeres ipsius, dominus Baroniae de Kyle, salutem in domino sempiternam. Cum dudum Reginaldus More, pater domini Willielmi More militis, concesserit, et pro se et haeridibus suis firmiter obligaverit, omnes terras suas subscriptas in baronia de Kyle et de Cowell, viz. terras de Sanacar, de Camsestrang, de Doulargis, de Cowdan, de Staflour, et terram de Hormisdale, et quascunque alias terras suas aut possessiones infra dominium nostrum existentes, religiosis viris abbati et conventui monasterii de Passeleto, ordinis Cluniacensis, Glasguensis diocesis, fore applicandas, et perpetuis eorum usibus appropriandas; in casu quo ante primam solutionem sibi faciendam cujusdam annui redditus quadraginta marcarum, in quo dicebat idem Reginaldus dictos abbatem et conventum magistro, canonicis et monialibus de Sympringham in Anglia, singulis annis obligat. Si literas quietae clamationis et perpetuae securitatis, a praedictis magistro, canonicis et monialibus de Sympringhame non procuraret, ac eisdem abbati et conventui monasterii de Passeleto deportaret et exhiberet; sic quod praedicti abbas et conventus de Passeleto, praedictarum literarum praetextu et virtute muniti, praedictis magistro, canonicis et monialibus de Sympringhame, de praedicto annuo redditu, in toto vel in parte, non tenerentur in perpetuum ulterius respondere. Ac super hoc, praedictus Reginaldus, pro se et haeredibus suis, subjecerit dictas terras voluntati, ordinationi, et cognitioni

Senescalli Scotiae qui pro tempore fuerit, patroni dicti monasterii de Passeleto, qui libere possit in favorem dictorum religiosorum virorum abbatis et conventus monasterii de Passeleto, et ad requisitionem eorundem, sine aliqua difficultate, ipsis dare saisinam de terris et possessionibus supradictis, prout haec et alia, in patentibus literis Reginaldi More, sigillo suo, ac sigillo nostro Roberti Senescalli Scotiae supradicti, nec non sigillo officialis curiae Glasguensis, plenius vidimus contineri. Nos vero Robertus Senescallus Scotiae supradictus, et Johannes Senescallus Primogenitus ipsius, Dominus de Kyle, per abbatem et conventum monasterii de Passeleto, cum instantia requisiti, quod cum dictus Reginaldus, et dominus Willielmus filius suus et haeres, praedictum annuum redditum per plures annos, a tempore dictae obligationis et promissionis factarum, a dictis religiosis viris percepit, ac ipsi, per captionem nummorum et compulsionem terrarum suarum aliquando, maxime per dictum dominum Willielmum More coacti et compulsi, ipsum annuum redditum persolverunt, nulla litera quittance aut securitatis promissa, pro parte dicti Reginaldi, aut dicti domini Willielmi, juxta formam dictae suae obligationis, eisdem abbati et conventui monasterii de Passeleto deportata, exhibita vel ostensa, procederemus ad dandam saisinam eisdem religiosis viris, abbati et conventui monasterii de Passeleto, de terris et possessionibus supradictis, juxta dictarum literarum continentiam atque formam: Volentes ad requisitionem eorundem, et virtute obligationis praedictae, et submissionis in nos factae, praedictis abbati et conventui monasterii de Passeleto, super praemissis de remedio debito providere, ipsas terras, viz. de Sanakar et Camsestrang, de Doulargis, de Cowdan et de Staflour, terram de Hormisdale, in manibus nostris; ex unanimi nostro consensu, propter hoc prius saisitas, ad tempus et

ex causa; Deo, beatae Mariae, Sancto Jacobo, Sancto Mirino, et religiosis viris, abbati et conventui monasterii de Passeleto, ibidem Deo servientibus et in perpetuum servituris; damus, concedimus, et hac praesenti carta nostra confirmamus: *Tenend. et Habend.* eisdem religiosis viris et eorum successoribus, de nobis et haeredibus nostris, in puram et perpetuam elemosinam, adeo libere, quiete, pacifice et honorifice, per omnes rectas metas suas antiquas; et divisas in boscis, planis, pratis, pascuis et pasturis, viis, semitis, moris, marresiis, aquis, stagnis, molendinis, multuris, et eorum sequelis, piscationibus, aucupationibus et venationibus; et cum omnibus aliis libertatibus, commoditatibus, aysiammentis, et justis pertinentiis ad praedictas terras, et earum quamlibet spectantibus, seu juste spectare valentibus in futurum, sicut dicti religiosi viri aliquam terram elemosinatam, de nobis vel praedecessoribus nostris liberius possident, sive tenent, tenuerunt vel possiderunt. Et in casu quo dictus Willielmus More, vel aliquis haeredum suorum possit docere aut docuerit per aliquas evidencias quas exhibere vel ostendere poterit, pro parte magistri, canonicorum et monialium de Sympringhame, quod jus et proprietas percipiendi dictam pensionem quadraginta marcarum annuatim, in dictum quondam Reginaldum et haeredes suos, vel in dictum dominum Willielmum vel suos haeredes, sint titulo—vel aliis quomodolibet, per dictos magistrum, canonicos et moniales, in perpetuum et omnino, vel ad tempus quod nondum transivit, translata, volumus, et pro nobis et haeredibus nostris in perpetuum concedimus, ac, virtute supradictae submissionis in nos factae, declaramus, et pro declarato haberi volumus, Quod ipsa pensio quadraginta marcarum sit in ipsos, per dictos magistrum, canonicos et moniales, translata, censeatur, et computari debeat et censi inter alias possessiones ipsorum quon-

dam Reginaldi et domini Willielmi, et haeredum suorum, nostris ordinationi et dispositioni submissas, et ipsis religiosi abbati et conventui perpetuo applicandas, ut supra : ipsamque pensionem, ipsius submissionis praetextu, eisdem, cum aliis supradictis terris et possessionibus, in perpetuum applicamus ; sic quod nec dicto domino Willielmo, vel haeredibus suis, aut ipsis magistro, canonicis et monialibus de Sympringhame, in hoc casu teneantur, aliquibus futuris temporibus aliququaliter respondere. In cuius rei testimonium, praesenti cartae nostrae Sigilla nostra sunt appensa. Hiis testibus, venerabili patre, domino Roberto Abbate de Kilwynnin ; Domino Hugone de Eglintoun, domino ejusdem ; Domino Alexandro Senescallo, domino Cruxton ; Domino Johanne de Danielston, domino ejusdem ; Domino Ada de Fowlarton, domino de Corsby, militibus ; Thoma Symple, domino de Eyliestoun ; Johanne de Maxwell, domino de Pollock ; Cosmo de Cowran, et multis aliis.

CARTA ROBERTI II. ARCHIBALDO DE DOUGLAS, EX
AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus ad quos praesentes literae pervenerint, Salu-
tem. Noveritis quod nos, considerantes labores multi-
plices quibus Archibaldus de Douglas miles, dilectus
consanguineus noster, pro recondendae memoriae domino
avunculo et praedecessore nostro, et pro Regni communi-
bus negotiis, tam in partibus quam alibi, laudabiliter in-
sudavit : Quodque idem Archibaldus, ex nostra et nostri
deliberatione concilii, oneratus est, cum aliis suis collegis,
nunc ut alias, pro tractatu habendo cum Rege et Regni
Franciae praelatis et nobilibus, super negotiis concilii,

viz. jam tractandis. Concedimus eidem Archibaldo, in casu quo Johannam de Moravia, uxorem suam contigerit, absque haerede de corporibus eorundem procreato superstite et permanente, ab hac luce migrare, ex nunc et ex tunc, omne jus et clameum nostrae Majestari Regiae competentia, in quibuscunque terris, redditibus, officiis, wardis, releviis et maritagiiis, eschaetis sive forisfacturis, ac aliis quibuscunque quae ad nos vel haeredes nostros pertinent, vel pertinere poterunt, post mortem dictae Johannae sic defunctae; et ut praesens nostra concessio, in quacunque sui particula, ab aliqua persona in posterum non possit revocari in dubium, eandem sic volumus declari, quod nostra extat intentio pro nobis et nostris haeredibus, ac expressa voluntas, quod dictus Archibaldus de Douglas miles, consanguineus noster, et haeredes sui, teneant, habeant et plene possideant de nobis et haeredibus nostris, praenotato casu contingente (quod absit) omnem eschaetam, nos vel haeredes nostros contingentem, de omnibus et singulis terris, redditibus et officiis praenotatis, ac etiam reversiones terrarum, reddituum, officiorum concess. ad tempus seu ad infeodationem talliatam, vel alias quovismodo. *Tenend. et Habend.* eidem Archibaldo et haeredibus suis, de nobis et haeredibus nostris, adeo libere, quiete, plenarie, integre et honorifice, sicut antecessores supradictae Johannae, praedictas terras, redditus et officia, liberius ullo unquam tempore tenuerunt seu possiderunt; una cum reversione terrarum et officiorum contingentium forsitan, sicut supra. Quousque haeredes sui, jus sibi vendicantes in eisdem, de nobis et haeredibus nostris, de jure et consuetudine Regni nostri, adepti fuerint legitime de dictis terris, redditibus et officiis, statum haereditarium et saisinam. Quodque idem Archibaldus et haeredes sui similiter teneant et habeant, libere, quiete, et plene possideant in feodo et

haereditate, in perpetuum, de nobis et haeredibus nostris, omnes et singulas terras, redditus et officia memorata; si et quandocunque, ac eo ipso quo ipsae terrae, redditus et officia, forsitan ad nos vel haeredes nostros pervenerint ratione forisfacturae, in toto vel in parte haeredum, seu jus sibi vendicantium in eisdem, de jure et consuetudine Regni nostri. *Faciendo* inde idem Archibaldus et haeredes sui, nobis et haeredibus nostris, servitia debita et consueta. Insuper etiam, quod idem Archibaldus, haeredes et assignati sui habeant, teneant et possideant wardas, relevia et maritagia quorumcunque haeredum praefatae Johanna, ut praemittitur, defunctae, (quod absit) et eisdem plene gaudeant, secundum jura et consuetudines Regni nostri, de omnibus et singulis terris, redditibus et officiis, de nobis tentis in capite, per totum Regnum nostrum, si cum et prout contigerit, legitime in futurum. In cujus rei testimonium, praesentibus Sigillum nostrum praecepimus apponi, apud Sconam, ultimo die mensis Martii, Anno Domini 1371, et Regni nostri primo. Testibus venerabilibus in Christo patribus, Willielmo et Waltero, Sancti Andreae et Glasguen. Ecclesiarum, Dei gratia, Episcopis; Johanne primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Meneteth, Alexandro Senescallo, filiis nostris carissimis; Willielmo Comite de Douglas; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Alexandro de Lyndesay et Roberto de Erskyne, militibus, consanguineis nostris.

(*No Tague nor Seal.*)

CARTA ROBERTI II. JOHANNI KENNEDY, DE BARONIA DE
DALRYMPILL, FOL. R. 57 OF KING DAVID'S BOOK.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus totius terrae suae, Salutem. Sciatis nos
dedisse, concessisse, et hac praesenti Carta nostra confir-
masse dilecto et fideli nostro Johanni Kennedy, medietatem
Baroniae de Dalrympill, cum pertinentiis, infra
vicecomitatum nostrum de Are ; quae quidem medietas
fuit Malcolmi, filii Gilchristi, filii Adae de Dalrympill ;
et quam idem Malcolmus, non vi aut metu ductus, nec
errore lapsus, sed mera et spontanea voluntate sua, nobis
sursum reddidit et resignavit. *Tenend. et Habend.* eidem
Johanni et haeredibus suis, de nobis et haeredibus nostris,
in feodo et haereditate, per omnes rectas metas et divisas
suas ; cum omnibus et singulis libertatibus, commoditati-
bus, aysiamentis et justis pertinentiis suis quibuscunque,
ad dictam medietatem baroniae praedictae spectantibus,
seu quoquomodo juste spectare valentibus in futurum ;
adeo libere et quiete, plenarie, integre et honorifice, in
omnibus et per omnia, sicut dictus Malcolmus, vel aliquis
antecessorum suorum, dictam medietatem baroniae prae-
dictae, cum pertinentiis, aliquo tempore liberius, quietius
et honorificentius juste tenuit seu possedit : *Faciendo* inde
servitia debita et consueta. In cujus rei testimonium,
praesenti Cartae Sigillum nostrum praecepimus apponi :
Testibus, venerabilibus in Christo patribus, Willielmo,
Waltero et Patricio, Sancti Andreae, Glasguen. et Bre-
chinen. Ecclesiarum Episcopis ; Johanne primogenito nos-
tro, Comite de Carrick, Senescallo Scotiae ; Thoma Co-
mite de Mar ; Willielmo Comite de Douglas, consan-
guineis nostris ; Roberto Comite de Meneteth, dilecto
filio nostro ; Archibaldo de Douglas, Alexandro de

Lyndesay, Roberto de Erskyne, consanguineis nostris; et Johanne de Carrick, Canonico Glasguensi, Cancellario nostro. Apud Sconam, penultimo die mensis Maii. Anno Regni nostri primo.

CARTA 105, ROTUL. 3. ROBERTI II. JOHANNI KENNEDY,
DE TERRIS DE DALRYMPILL.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, clericis et laicis, Salu-
tem. Sciatis nos dedisse, concessisse, et hac praesenti
Carta nostra confirmasse dilecto et fideli nostro Johanni
Kennedy, medietatem Baroniae de Dalrympill, cum per-
tinentiis, infra vicecomitatum de Are, quae fuit Hugonis,
filii Rollandi de Dalrympill; et quam idem Hugo, non
vi aut metu ductus, nec errore lapsus—nobis per fustem
et baculum sursum reddidit, pureque et simpliciter resig-
navit in perpetuum. *Tenend. et Habend.* dicto Johanni
et haeredibus suis, de nobis et haeredibus nostris, in feodo
et haereditate, per omnes rectas metas et divisas suas;
cum omnibus et singulis libertatibus, commod.—adeo
libere et quiete—sicut dictus Hugo, vel aliquis antecesso-
rum suorum, ipsam medietatem baroniae praedictae, cum
pertinentiis, de nobis, ante resignationem suam nobis
exinde factam, liberius, quietius, plenius et honorificen-
tius, juste tenuit seu possedit. *Faciendo* nobis et haere-
dibus nostris, ipse Johannes et haeredes sui, servitia de
praedicta medietate baroniae praedictae, cum pertinentiis,
debita et consueta. In cujus rei testimonium, praesenti
Cartae nostrae, nostrum praecepimus apponi Sigillum.
Testibus, venerabili in Christo patre, Willielmo Episcopo
Sancti Andreae; Johanne primogenito nostro de Carrick,
Senescallo Scotiae; Roberto de Fyfe et de Meneteth, filio

nostro dilecto; Willielmo de Douglas et de Mar, Comitibus; Venerabili viro, magistro Johanne de Peebles, Archidiacono Sancti Andreae, Cancellario nostro; Jacobo de Lyndesay, nepote nostro, et Alexandro de Lyndesay, militibus. Apud Stryvelyn, tertio die Decembris, Anno Regni nostri septimo.

CARTA 4, ROBERTI II. ROTUL. 5. ALEXANDRO SENESCALLI
DE STRACHOLVYN.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, Salutem. Sciatis nos
dedisse, concessisse, et hac praesenti Carta nostra confir-
masse dilecto filio nostro, Alexandro Senescallo militi;
quod post decessum nostrum habeat totum jus et proprie-
tatem, quod et quam habemus in terris de Stracholvyn,
cum pertinentiis, infra vicecomitatum de Bamf, nos con-
tingens et contingentem, tam causâ relevii quam aliter
quoquomodo. *Tenend. et Habend.* dicto Alexandro, et
haeredibus suis de corpore suo legitime procreandis, in
feodo et haereditate—Cum omnibus et singulis libertati-
bus, commod. aysiamenis et justis pertinentiis quibus-
cunque, ad dictum jus et proprietatem spectantibus, seu
quoquomodo spectare valentibus in futurum; libere,
quiete, plenarie et integre, bene et in pace—In cujus rei
testimonium, praesenti Cartae nostrae Sigillum nostrum
apponi fecimus. Testibus, venerabilibus in Christo pat-
ribus, Willielmo et Patricio, Sancti Andreae et Brechi-
nen. Ecclesiarum Episcopis; Johanne primogenito nostro,
Comite de Carrick et Senescallo Scotiae; Thoma Comite
de Mar, Willielmo Comite de Douglas, consanguineis
nostris; Roberto Comite de Meneteth, filio nostro;
Johanne de Carrick, Canonico Glasgwen, Cancellario no-

stro ; Alexandro de Lyndesay, Roberto de Erskyne, militibus, consanguineis nostris. Apud Edinburgh, decimo-septimo die mensis Junii, Anno Regni nostri primo.

CONFIRMATIO DONATIONIS WILLIELMI COMITIS DE ROSSE,
FACTA PAULO MACTAYRE, DE TERRA DE GERLOCH. EX
AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, Salutem. Sciatis nos Cartam bonae memoriae Willielmi Comitis de Rosse, Domini de Sky, de mandato nostro visam, lectam et diligenter inspectam, non abolitam, non cancellatam, nec in aliqua sui parte suspectam, intellexisse ad plenum in haec verba : Omnibus hanc Cartam visuris vel audituris ; Willielmus Comes de Rosse, Dominus de Sky, salutem in Domino. Noveritis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto et fideli nostro Paulo Mactayre, pro fideli servitio suo nobis multipliciter impenso, totam terram nostram de Gerloch, cum pertinentiis, infra partes Ergadiae, in feodo et haereditate. Perpetuo *Tenend. et Habend.* de nobis et haeredibus nostris, praenominato Paulo Mactayre suisque haeredibus, inter ipsum et dilectam nostram Mariam de Grahame, procreatis seu procreandis : quibus deficientibus (quod absit) praedictam terram de Gerloch ligittimis haeredibus praedicti Pauli volumus permanere ; viz. in moris et marresiis, aquis, stagnis, pratis, pascuis atque venariis, viis, semitis, boscis, planis, venationibus, aucupationibus, piscariis, molendinis et brueriis, ac omnibus aliis commoditat. libertat. et aysimentis ad dictam terram spectantibus, ex nunc seu quovismodo alio, sive jure aut titulo spectare valentibus in

futurum; adeo libere, quiete, plenarie, pacifice et honorifice, bene et in pace, sicut aliqua terra infra dominium nostrum plenius detinetur vel possidetur. *Reddendo* inde nobis et haeredibus nostris, praefatus Paulus Mac-tayre et haeredes sui, ut praemittitur, unum denarium argenti, nomine *Albaefirmae*, annuatim, pro omni alio onere, exactione seculari seu demanda, ad Festum Pentecostes, si petatur: excepto servitio forensico Domini nostri Regis, quantum ad dictam terram spectat, cum Regia voluntas supervenerit. Quam quidem donationem nostram, in omnibus suis punctis et articulis, ut praefer-tur, contra omnes homines et faeminas warrantizabimus, acquitabimus, et in perpetuum defendemus. Scriptum sub Sigillo nostro, apud Delgheny, quinto die mensis Aprilis, Anno Domini, 1366. Hiis testibus, venerabili in Christo patre, Domino Domino Alexandro, Dei Gratiâ, Episcopo Rossensi; Hugone de Rosse, fratre nostro; Henrico Senescallo, Johanne de Carale, Eymundo de Wyntona, cum multis aliis. Quam quidem Cartam, in omnibus punctis, conditionibus, articulis et circumstantiis suis quibuscunque, in omnibus et per omnia, forma pa-riter et effectum, ratificamus, approbamus, et pro nobis et haeredibus nostris in perpetuum confirmamus. In cujus rei testimonium, praesenti Cartae confirmationis nostrae, nostrum praecepimus apponi Sigillum. Testibus, vene-rabilibus patribus, Willielmo et Patricio, Sancti Andreae et Brechinen. Dei gratiâ, Ecclesiarum Episcopis; primo-genito nostro Johanne Comite de Carrick, Senescallo Scotiae; Roberto Comite de Fyfe et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas; Georgio de Dumbar, Comite Marchiae; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Hugone de Eglintone et Roberto de Erskyne, militibus. Apud

Edinburgh, octavo die mensis Maii, Anno Regni nostri secundo.

(*No Tague nor Seal.*)

COMPOSITIO ANNUI REDDITUS, FACTA INTER ABBATEM DE PASSELET ET WILLIELMUM MORE, MILITEM, 1373. EX CARTUL. PASSELETENSI, P. 123.

UNIVERSIS ad quorum notitiam praesentes litterae pervenerint: Johannes Regis Scotiae primogenitus, Comes de Carrick et Senescallus Scotiae; Willielmus Comes de Douglas, Hugo de Eglintone, Alanus Senescallus, Milites; Johannes de Carrick, Canonicus Glasguen. Cancellarius Scotiae; magister Gulielmus de Dalgarnock, Canonicus de Dunkelden; Adam Forester, Aldermannus de Edinburgh, et Alanus de Lawedre: Salutem in Domino sempiternam. Cum nuper, super questione seu controversia mota inter dominum Willielmum More, militem, nomine, et ex parte magistri et monialium domus de Sympringhame, ex parte una; et religiosos viros abbatem et conventum monasterii de Passelet, ordinis Cluniacensis, ex altera, super petitione annuae pensionis quadraginta marcarum Sterlingorum, praefato domino Willielmo More, nomine; quo supra debitae, ut asserunt, per praefatos abbatem et conventum de Passeleto; post nonnullas lites, controversias et altercationes, tam in Romana curia quam in his partibus, hinc inde agitatae et habitae, compromissum fuisset finaliter in nos, tanquam in compositores amicabile per partes praedictas. Nos, attentis et consideratis laboribus, expensis et damnis, quas et quae hactenus utraque praedictarum partium fecit et sustinuit, occasione litis sive controversiae praedictae; et quas et quae ipsarum quamlibet oportebit sustinere et facere, si lis super

hoc continuata fuerit ulterius inter partes ; onus compromissi hujusmodi in nos, ad instantiam earundem partium, assumentes, recepta ab utraque parte prius juratoria cautione, quod earum quaelibet stabit ordinationi, definitioni, et determinationi nostrae in hac parte, quodque ipsas ordinationem, definitionem et determinationem, ratas et firmas habebit perpetuo. Visis, lectis et diligenter examinatis litteris, evidentiis et instrumentis, per utramque partem coram nobis exhibitis et productis ; ac auditis rationibus hinc inde, tam verbo quam scripto propositis : Deindeque, inter nos sollicito et diligenti tractatu, sive deliberatione praehabita, in ipso compromissi negotio, juxta formam nobis traditam procedentes ; ordinavimus, definivimus et pronunciavimus, Quod lis sive controversia praedicta, omnino quiescat, ac sopita sit et extincta penitus, sub modis, forma et conditionibus infrascriptis. Et primo, Quod terrae de Sanchare, infra vicecomitatum de Are, quae fuerunt dicti domini Willielmi More, ad manus nostras saisitae, et ad proprios usus dictorum religiosorum applicatae, praetextu et virtute cujusdam obligatorii, Sigillo quondam Reginaldi More, patris ejusdem domini Willielmi More, sigillati, et coram nobis, inter alia, ibidem exhibiti, ac postmodum nobis Johanni Comiti de Carrick praedicto, de consensu domini patris nostri, Regis Scotiae, tunc Senescalli Scotiae, donatae et concessae, per Cartam eorundem religiosorum virorum, et in manu nostra per dies et annos existentes, reddantur et restituantur praedicto domino Willielmo More. *Tenendas, Habendas, et Possidendas* sibi et haeredibus suis, adeo libere, sicut ante applicationem, donationem et concessionem de ipsis sibi factas, ipsas terras liberius juste tenuit seu possedit ; quodque per nos comitem praedictum, et auctoritate nostra, in possessionem seu saisinam earundem mittatur, ac mitti debeat, sicut prius. *Item*, Quod dictus

dominus Willielmus More, ante primam solutionem sibi faciendam de summa pecuniae subscripta, omnes litteras, cartas et evidentias, ac instrumenta tam publica quam privata, per quas et quae ipsam annuam pensionem quadraginta marcarum, nomine quo supra, petiit, seu petere aut habere nitebatur, seu debuit, sursum reddat; ac ipsis et eorum singulis, ac omni juri sibi et haeredibus suis, aut dictis magistro et monialibus, in ipsa annua pensione quadraginta marcarum competenti seu debita, seu quod sibi aut eis competere potest aut poterit in futurum, eidem abbati et conventui de Passeleto omnino renunciaret pro se et haeredibus suis, ac pro magistro et monialibus supradictis.

Item, Ordinum fuit et definitum, ac pronunciatum per nos compositores amicales praedictos, Quod praefatus Dominus Willielmus More, ad reddendum praefatos religiosos viros perpetuo indemnes, a petitione magistri et monialium domus de Sympringhame, quo ad annuam pensionem praedictam, ipsos religiosos abbatem et conventum de Passelet habere faciet omnes litteras, evidentias et instrumenta, quae in hac parte necessaria fuerint ad enervationem et annulationem juris, et petitionis praedictorum magistri et monialium in hac parte.

Item, Ordinum fuit et definitum, ac pronunciatum per nos compositores amicales praedictos, Quod praefati religiosi, abbas et conventus de Passelet, ad redimendum labores et vexationes ipsorum, et etiam jus quod asseruit dominus Willielmus More se habuisse ad dictam annuam pensionem quadraginta marcarum praedictarum, solvant eidem domino Willielmo More, haeredibus vel assignatis suis, apud monasterium de Passelet, trecentas marcas Sterlingorum, ad terminos infra-scriptos; *viz.* Centum marcas Sterlingorum, ad Festum Pentecostes proxime futurum; centum marcas Sterlingorum, ad Festum Sancti Martini immediate sequens; et centum marcas Sterlingorum, ad

Festum Pentecostes Anno Domini 1374. *Item*, Ordinat-
 um fuit, et definitum ac pronunciatum, Quod si aliquae
 litterae, instrumenta vel cartae, aut aliquae aliae eviden-
 tiaae quaecunque, penes aliquam partium praedictarum,
 aut penes magistrum et moniales supra-dictos, aut alios
 quoscunque, repertae seu reperta fuerint, de caetero con-
 tinentes, seu continentia praefatam annuam pensionem
 quadraginta marcarum, apud aliquam partium praedicta-
 rum; ipsae litterae, cartae, instrumenta seu evidetiae,
 sint perpetuo cassae, nullae et irritae, cassa, nulla et
 irrita, nullamque obtineant perpetuo roboris firmitatem.
 Et in praemissorum omnium testimonium, et ad perpe-
 tuam memoriam futurorum; nos praefati compositores
 amicabiles, praesenti scripto sive instrumento, nostra fe-
 cimus apponi sigilla. Et nihilominus praefati abbas et
 conventus, ac praefatus dominus Willielmus More, in
 signum et testimonium utriusque partis consensus, sigilla
 sua apposuerunt etiam juxta nostra. Acta fuerunt haec
 in ecclesia sancti Aegidii de Edinburgh, in Capella Sanctae
 Katharinae Virginis, vicesimo-quarto mensis Aprilis,
 Anno Domini 1373.

CARTA 2, ROTUL. 7. ROBERTI II. WILLIELMO DE DOUGLAS.
 DE 40 LIBRIS STERLINGORUM.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
 bis hominibus totius terrae suae, clericis et laicis, Salutem.
 Sciatis nos dedisse, concessisse, et hac praesenti Carta
 nostra confirmasse dilecto consanguineo nostro* Williel-

* William Douglas, mentioned in this Charter, was eldest lawful son to Archi-
 bald Lord Galloway. He espoused Giles Stuart, daughter to Robert II., and by
 that means became Lord Nithsdale. He left one only daughter, Giles, called *the*
Fair Maid of Nithsdale, who conveyed that lordship to her husband, Henry

mo de Douglas, militi, filio domini Archibaldi de Douglas, militis, Domini Galwidiae, consanguinei nostri, pro suo servitio nobis impenso et impendendo, quadraginta libras Sterlingorum annuatim percipiend. per manus Camerarii nostri qui pro tempore fuerit, de magna Custuma nostra Burgorum nostrorum Scotiae, ex australi parte aquae de Forth, ad duos anni terminos, *videlicet*, Pentecostes et Sancti Martini in hyeme, per aequales portiones, apud Edinburgh. *Tenend. et Habend.* eidem Willielmo et haeredibus suis, de nobis et haeredibus nostris, in feodo et haereditate, quousque nos aut haeredes nostri, sibi vel haeredibus suis praedictis, de uberiori remuneratione fecerimus, vel fecerint provideri. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerabilibus in Christo patribus, Willielmo, et Johanne Cancellario nostro, Sancti Andreae et Dunkelden. Ecclesiarum Episcopis; Johanne primogenito nostro, de Carrick, Senescallo Scotiae; Roberto de Fyfe et de Meneteth, filio nostro dilecto; Willielmo de Douglas, consanguineo nostro, comitibus; Archibaldo de Douglas et Roberto de Erskyne, consanguineis nostris, militibus. Apud Glasguen. tempore concilii nostri tenti ibidem, vicesimo-primo die Septembris. Anno Regni nostri quarto.

Saintclair of Roslin, Earl of Orkney; whose son, William Earl of Orkney, gave over his office of warden of the Wester Marches, with that lordship, and the office of chamberlain and sheriff of Dumfries, to James II., for the earldom of Cathness, 1455.

CARTA 73, ROTUL. 4, ROBERTI II. JACOBO DE DOUGLAS
DE DALKETH, DE BARONIIS DE KINCAWYLL, CALDERE-
CUER, &c.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus totius terrae suae, clericis et laicis, Salutem.
Sciatis nos dedisse, concessisse, et hac praesenti Carta
nostra confirmasse Jacobo de Douglas de Dalkeith, militi,
consanguineo nostro dilecto, totam Baroniam de Kin-
cawyll et Calderecuere, in Constabularia de Lynlithgow,
infra Vicecomitatum de Edinburgh ; totam Baroniam de
Preston, infra Vicecomitatum, de Dumfreis ; totam Baro-
niam de Kylbochok et de Newlandys, et totam Baroniam de
Kylmourocheryk, infra Vicecomitatum de Peebles. Quae
quidem baroniae, cum pertinentiis, prius fuerunt dicti
Jacobi ; et quas baronias, cum pertinentiis, idem Jacobus,
non vi aut metu ductus, nec errore lapsus, sed mera et
spontanea voluntate sua, nobis per fustem et baculum
sursum reddidit, pureque et simpliciter resignavit ; ac to-
tum jus et clameum quae in dictis baroniis, cum pertinen-
tiis, habuit seu habere potuit, pro se et haeredibus suis,
omnino quietum clamavit in perpetuum. *Tenend. et*
Habend. eidem Jacobo, et Jacobo de Douglas filio suo, ex
sua uxore legitima, Agnete, viz. de Dumbar, sorore
Comitis Marchiae, suscepto, et haeredibus ipsius Jacobi
filii masculis, de corpore suo legitime procreandis, in
feodo et haereditate ; per omnes rectas metas et divisas
suas, in liberas baronias, in boscis et planis, moris, mar-
resiiis, pratis, pascuis et pasturis, viis, semitis—nativis, et
eorum sequelis ; cum tenandiis, servitiis libere tenentium ;
cum curiis, curiarum exitibus et eschaetis ; cum furca et
fossa—et cum omnibus aliis et singulis libertat. commod.
et aysiamentis, et justis pertinentiis quibuscunque, ad dic-

tas baronias spectantibus, seu quoquomodo juste spectare valentibus in futurum; adeo libere et quiete, plene, integre et honorifice, in omnibus et per omnia, sicut dictus Jacobus de Douglas de Dalketh, pater, dictas baronias, cum pertinentiis, ante resignationem hujusmodi nobis factam, liberius, quietius, juste tenuit seu possedit. Et si contingat quod dictus Jacobus de Douglas filius, absque haerede masculo, de corpore suo legitime procreando, ab hac luce migrare contingat; donamus, concedimus, et hac praesenti Carta nostra confirmamus eidem Jacobo Patri easdem baronias, cum omnibus pertinentiis supradictis. *Tenend. et Habend.* sibi et haeredibus suis masculis, ex eadem uxore sua vel alia quacunque legitime procreandis; quibus haeredibus masculis, sic procreandis, deficientibus, Willielmo de Douglas, militi, fratri ipsius Jacobi de Douglas, patris, et haeredibus suis masculis, de corpore suo legitime procreatis seu procreandis; et ipsis deficientibus, Henrico de Douglas, militi, fratri ipsorum Jacobi et Willielmi, et haeredibus suis masculis, de corpore suo legitime procreatis seu procreandis; et ipsis haeredibus masculis praefati Henrici deficientibus, Thomae de Douglas, fratri eorundem Jacobi patris, Willielmi et Henrici, et haeredibus ipsius masculis, de corpore suo legitime procreandis: Quibus omnibus deficientibus, haeredibus veris et legitimis praefati Jacobi de Douglas de Dalketh, patris, quibuslibet, de nobis et haeredibus nostris, in feodo et haereditate, adeo libere, in omnibus et per omnia, sicut de personis dictorum Jacobi de Douglas, patris, et Jacobi filii sui, superius est expressum. *Faciendo* nobis et haeredibus nostris, praefatus Jacobus, et singuli haeredum suorum et aliorum praedictorum, servitia de dictis baroniis, cum pertinentiis, debita et consueta. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum.

Testibus, venerabili in Christo patre, Willielmo Episcopo Sancti Andreae; Johanne primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Fyfe et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas; Johanne de Carrick, Cancellario nostro; Jacobo de Lyndesay, nepote nostro; Archibaldo de Douglas, Hugone de Eglinton et Roberto de Erskyne, militibus. Apud Perth, secundo die mensis Januarii. Anno Regni nostri quarto.

CARTA ROBERTI II. JOHANNI BETON,* DE TERRIS DE
BALFOURE. EX AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius regni sui, clericis et laicis, Salutem. Sciatis nos approbasse, ratificasse et confirmasse donationem et concessionem illas, quas dilectus et fidelis noster Duncanus Comes de Fyfe, dedit et concessit Johanni Beton, de totis et integris terris de Balfoure, et de Newton, et de Catile, in Vicecomitatu de Fyfe jacentibus. *Tenend. et Habend.* totas et integras terras praedictas, cum pertinentiis, praedicto Johanni, haeredibus suis, et suis assignatis, de Comite de Fyfe, in feodo et haereditate, in perpetuum, per omnes rectas metas suas antiquas et divisas; cum omnibus et singulis commod. libertat. et aysiammentis, ac justis pertinentiis quibuscunque, ad praedictas terras, cum pertinentiis, spectantibus, seu juste spectare valentibus quomodolibet in futurum; adeo libere et quiete, plenarie, integre et honorifice, bene et in pace; in omnibus et per omnia, sicut in Cartis dicti Duncan, dicto Johanni Beton, inde confectis, plenius continetur.

* This family of Beton hath given us several chancellors and archbishops at home, and ambassadors abroad. Whereof more elsewhere.

Salvo nobis et haeredibus nostris, servitio inde debito et consueto. In cujus rei testimonium, praesenti Cartae nostrae Sigillum nostrum apponi fecimus. Testibus, venerabili in Christo patre, Willielmo Episcopo Sancti Andreae; Johanne Comite de Carrick, Senescallo Scotiae, primogenito nostro; Roberto Comite de Fyfe et de Meneth, filio nostro; Willielmo Comite de Douglas, consanguineo nostro dilecto; Johanne de Pebles, Archidiacono Sancti Andreae, Cancellario nostro, et Roberto de Erskyne, militibus; Johanne de Quhitness, Praeposito de Edinburgh. Apud Edinburgh, decimo-octavo die mensis Maii. Anno Regni nostri septimo.

(*The Tague, Parchment. No Seal.*)

INSTRUMENTUM DE VISITATIONE MONASTERII DE PASSELET. PER WALTERUM EPISCOPUM GLASGUEN. P. 192. CARTUL. PASSELET.

IN DEI nomine. *Amen.* Per hoc praesens publicum Instrumentum cunctis appareat evidenter, Quod Anno Gratiae 1384, indictione septima, mensis Junii die secundo; Pontificatus S. S. in Christo Patris et Domini nostri, Domini Clementis Papae VII. anno sexto: Coram Excellentissimo Principe Domino Roberto, Rege Scotorum illustri, ejusque Primogenito, Johanne Comite de Carrick, et Roberto Comite de Fyfe, militibus: Reverendus in Christo Pater Walterus, Dei Gratiâ, Episcopus Glasguensis, ex parte una; et venerabilis pater, dominus Johannes de Lithgw. Abbas Monasterii de Passeleto,*

* Paisley was a famous abbey of Benedictines, or Black Monks, of the congregation of Cluny in France, brought from Wenlock in England. It was founded by Walter, son of Allan, *Dapifer Regis Scotiae*, in 1164, near the Water of Kart, in the barony of Renfrew, about two miles from that city, which giveth

ordinis Cluniacensis, Glasguen. Diocesis, ex altera, personaliter constituti. Idem dominus Episcopus asseruit se, de jure communi, jurisdictionem ordinariam habere in abbatem et conventum dicti monasterii de Passeleto; et consequens, quemlibet canonice electum ejusdem, ab ipso et successoribus suis qui pro tempore fuerint, debere confirmari et benedici, et non alibi, ipsorum licentiâ super hoc non petita et obtenta; in cujus jurisdictionis possessione sui praedecessores notorie fuerunt, ut dicebat. Praefatus vero abbas, contrarium asserens, dixit, se, conventum suum, et monasterium praedictum, ab omni jurisdictione ordinaria fuisse et esse exemptum, per certa privilegia, dicto monasterio et ordini Cluniacensi specialiter concessa et indulta, ac in ipsius libertatis possessione semper existere, a tempore hominum quorum memoria non existit, sine interruptione cujuscunque. Et super hujusmodi quaestione seu controversia, inter ipsos Episcopum et Abbatem sic diu ventilata; pro bono utriusque partis, ipsis Rege et Comitibus in hac parte diligenter tractantibus, ac considerato, quod dictus dominus Episcopus, in arduis Regis et Regni negotiis, ad partes remotas tunc erat in legatione ordinatus, de ipso-

name to that little shire, and six miles from Glasgow. The fabric of this monastery was both large and spacious. The church is a stately and fair building; the one and the other, with the fruitful orchards and pleasant gardens, were inclosed with one of the most magnificent walls in Britain, by George Schaw, of the family of Sauchy, abbot of that place, in 1484. There was an abridgement of our chronicles kept here, called *the Black Book of Paisley*: 'Tis now in the royal library of St. James', bound in a red cover. This marvellous piece of antiquity is frequently cited by Buchanan. It belonged to Sir William Sinclair of Roslin, Lord Justice General: It was in Bishop Spotiswood's custody whilst he compiled his Church History. During our late troubles, it fell into General Fairfax's hands, by whom it was carried into England. There is a defaced copy thereof in Bennet's College at Cambridge, written by John Gibson, Canon of Glasgow, An. 1500, whom Mr. Baker, by mistake, takes to have been *Canon. Aurelianensis*, for *Canon. Glasguensis*.

rum Episcopi et Abbatis consensu, in forma quae sequitur extitit concordatum, *viz.* Quod dicta quaestio sive causa, in statu quo tunc erat integre remaneret, usque ad reditum de remotis domini episcopi praedicti; ita quod interim nulla dictarum partium in praejudicium juris alterius aliquid impetraret seu attemptaret in Romana curia, vel alibi ubicunque, Et in casu quo medio tempore aliquid fuerit impetratum pro dictis abbate et conventu, illud non cederet in derogationem juris aut causae inter eosdem, ut praemittitur, motae. Et ista firmiter et inviolabiliter observare, tam dictus dominus episcopus, quam dominus abbas praefatus, manu levata et fide praestita, fideliter promisit; et super praemissis petierunt dictae partes, et earum quaelibet, per me notarium subscriptum, sibi confici publicum instrumentum, seu publica instrumenta, consimilis substantiae, tenoris atque formae. Acta sunt haec apud ecclesiam parochialem de Dumbarton, anno, indictione, die, mense et pontificatu praedictis. Praesentibus venerabilibus viris et discretis dominis, magistris Symone de Ketnes Decano, et Willielmo Adysym, Canonico Ecclesiae Aberdonensis; Johanne de Glasgw, Cancellario Ecclesiae Dunkelden. Nicholao de Irwyne et Johanne Wischard, Canonicis Ecclesiae Glasguen. ac Thoma de Barry, notario publico; cum multis aliis testibus, ad praemissa vocatis, et specialiter rogatis.

Et ego David de Stryvelyn, Clericus Sancti Andreae Diocesis, publicus, Apostolica et Imperiali auctoritate, Notarius, praemissis omnibus et singulis, dum fierent et agerentur ut suprascribuntur, unae cum praenominatis testibus, praefato die et loco praesens fui; eaque omnia et singula sic fieri vidi et audiui, et in hanc publicam formam redegi, et signo

meo consueto signavi, per praedictos Episcopum et Abbatem rogatus et requisitus, in testimonium praedictorum.

CONFIRMATIO ROBERTI II. REGIS, BARONIAE DE HARBERSCHIRE, FACTA WILLIELMO DE DOUGLAS. EX AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos approbasse, ratificasse, et hac praesenti Carta nostra confirmasse donationem illam et concessionem, quas fecit et concessit consanguineus noster Archibaldus de Douglas, Dominus Galwidiae, Willielmo de Douglas militi, filio suo, de Baronia de Harbarschire, cum pertinentiis, infra vicecomitatum de Strivelyne. *Tenend. et Habend.* praedicto Willielmo, et Ægidiae sponsae suae, filiae nostrae carissimae, eorumque alteri diutius viventi, et haeredibus inter ipsos legitime procreatis seu procreandis, in feodo et haereditate, per omnes rectas metas et divisas suas; cum omnibus et singulis libertat. commod. aysiammentis et justis pertinentiis quibuscunque, ad dictam baroniam cum pertinentiis spectantibus, seu quoquomodo spectare valentibus in futurum; adeo libere et quiete, plenarie, integre et honorifice, in omnibus et per omnia, sicut Carta dicti consanguinei nostri, eis inde confecta, in se juste continet et proportat; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae confirmationis nostrum praecepimus apponi Sigillum. Testibus, venerabilibus in Christo patribus, Waltero, et Johanne Cancellario nostro, Sancti Andreae et Dunkelden. Ecclesiarum Episcopis; Johanne primogenito nostro, de Carrick, Senescallo Scotiae; Roberto de Fyfe et de Meneteth, filio

nostro dilecto, comitibus; Archibaldo de Douglas et Thoma de Erskyne, consanguineis nostris, militibus. Apud Castrum nostrum de Rothesay, decimo-sexto die Maii, Anno Regni nostri decimo-nono.

[*The broad seal of white wax appended, on a tague of parchment.*]

There is no rational man, of any ordinary reach or understanding, who will read with attention the King's declaration in the Appendix, No. 1, and the preceding charters, transcribed either from the originals or our public records, but will easily perceive that John Stuart behoved to be lawful son to King Robert. His designation of *Primogenitus et Haeres*, his authority and credit, in settling a perpetual peace and friendship betwixt Paisley and Sir William More, and betwixt John Lithgow, abbot of that monastery, and Walter Wardlaw, Bishop of Glasgow, afterwards cardinal and legate for the Pope, who were at variance; the hereditary office of steward, bestowed on him at his father's accession to the throne, preferably to the other children; the privilege of precedency, and of subscribing all public writings before our Peers without being quarrelled, notwithstanding he was only advanced to the dignity of an Earl about the latter end of King David's reign, and so should have been ranked after them in the records, and in the rear in the rolls; his father's manifesto made at Scoon in his favours, the 27th of March 1371,* whilst the whole na-

* The terms of the manifesto are: "Serenissimus Princeps Dominus Robertus, Dei Gratiâ, Rex Scotorum illustris; apud Sconam tempore suae coronationis existens.—Post sacra unctionis et coronationis suae peracta Solemnia.—Volens, more et exemplo celebris memoriae Avi sui, coram clero et populo successorem et verum haeredem suum declarare ibidem, licet de ipso clare constitit atque constet; ex abundanti et unanimi consensu et assensu dictorum praelatorum, comitum, procerum et magnatum, indicavit, asseruit et recognovit, declaravit et voluit,

tion was gathered in one body, without any opposition from William Earl of Douglas, who is said to have laid claim to the crown at Linlithgow, after King David's decease, as descended of the Balliols and Cumins;—are, in my judgment, so solid proofs, and so clear demonstrations for supporting what I have averred, that there can be no tolerable objection started or alleged against his being eldest lawful son and heir to King Robert, and consequently against his mother's lawful marriage in 1334. In which year Pope John XXII., who granted the dispensation, peaceably departed this life, and was succeeded by Bennet XII.

I have also noticed, that Robert II. out of his royal care and tender affection, was pleased to provide plentifully for his bastards, begotten upon Marion Cardnay, his concubine, after he was King. His dispositions, nevertheless, were illegal and irregular; for although the law allows every freeholder or convoyer to dispose of a part of his fortune, or of his civil rights, in favours of any person he fancies; lib. 2, cap. 18, art. 7, *Licet autem generaliter cuilibet liceat de terra sua rationabilem partem, pro voluntate sua, cuicunque voluerit in vita sua donare* :

Yet the bastard is expressly excepted by the 19 cap. art. 5, in case there be an heir; *Sed nunquam filio bastardo potest quis, filium et haeredem habens, de sua haereditate donare*. The grants then made by the King behoved necessarily to be ratified by the undoubted heir, for securing the children unlawfully born, in what lands were transferred to them, and removing those fears the parties

Quod cum ipsum contigerit, pro dispositione divina, ab hac luce migrare, Dominus Johannes, filius suus primogenitus, Comes de Carrick, et Senescallus Scotiae, erit et esse debet verus et legitimus haeres suus; ac sibi, post mortem suam, in Regno Scotiae, Domino disponente, succedat, et succedere debet, et post cum sedebit, et sedere debebit, super Solium Regni sui.

concerned had conceived, that they should be denuded and deprived of their estates after their father's death. John Earl of Carrick being then earnestly required as heir, to confirm, by a separate patent, their charters and infestments for that purpose, and naming himself in the record, eldest son to King Robert, which is equivalent to eldest lawful son, whilst he calls the children of Marion Cardnay, in opposition to himself and his brethren, natural sons. It follows from thence, that his mother was lawful wife, and that he himself was legal heir to the King; both assertions being evident from the preceding and following documents.

CARTA 114, ROTUL. 4, ROBERTI II. ALEXANDRO SENES-
CALLI, DE TERRIS DE INVERLOUNAN.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus—Salutem. Sciatis nos dedisse, concessisse,
et hac praesenti Carta nostra confirmasse, carissimo filio
nostro Alexandro Senescalli, de Mariota de Cardny pro-
creato, omnes et singulas terras de Innerlounan, cum
pertinentiis, infra vicecomitatum de Forfar, quae fuerunt
Richardi de Monte Alto, Capellani; et quae idem Rich-
ardus, non vi aut metu ductus, nec errore lapsus, sed mera
et spontanea voluntate sua, nobis per fustem et baculum
sursum reddidit, pureque et simpliciter resignavit, ac totum
jus et clameum, quae in dictis terris, cum pertinentiis,
habuit vel habere potuit, pro se et haeredibus suis omnino
quietum clamavit in perpetuum. *Tenend. et Habend.*
dicto Alexandro et haeredibus suis, de corpore suo legit-
time procreandis; quibus forte deficientibus, Johanni
Senescalli, filio nostro, fratri dicti Alexandri uterino; et
ipsis deficientibus, Jacobo filio nostro, ex eadem Mariota

procreato, et haeredibus de corpore suo legitime exeuntibus; quibus omnibus deficientibus, veris et legitimis haeredibus nostris, in feodo et haereditate; per omnes rectas metas et divisas suas, in unam integram et liberam Baroniam; in boscis et planis, moris, marresiis, viis, semiis, aquis, stagnis, molendinis, multuris et eorum sequelis, pratis, pascuis et pasturis, aucupationibus, venationibus et piscariis, bondis, bandagiis, natis et eorum sequelis; cum tenandis, et servitiis libere tenentium; cum furca et fossa, socka et socko, thol et theame, et infangand thief; ac cum omnibus et singulis commod. libertat. et aysiamen-
tis, ac justis pertinentiis quibuscunque, ad dictam Baroniam, cum pertinentiis, spectantibus, seu juste spectare valentibus quomodolibet in futurum; adeo libere et quiete, plenarie, integre et honorifice, in omnibus et per omnia, sicut dictus Richardus vel antecessores sui, dictam Baroniam, cum pertinentiis, de nobis, ante resignationem suam exinde factam, liberius, quietius, plenius, integrius et honorificentius, tenuit seu possedit, aut tenuerunt seu possederunt. *Faciendo* inde servitia debita et consueta. In
cujus rei testimonium—Testibus, venerabili in Christo patre, Willielmo Episcopo Sancti Andreae; Johanne primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto de Fyfe et de Meneteth, filio nostro dilecto; Willielmo de Douglas et de Mar, consanguineo nostro, Comitibus; venerabili viro, magistro Johanne de Peeblys, Archidiacono Sancti Andreae, Cancellario nostro; Jacobo de Lyndesay, nepote nostro carissimo, et Alexandro de I.yndesay, consanguineo nostro, militibus. Apud Dundee, quarto die Januarii, Anno Regni nostri septimo.

CARTA 15, ROTUL. 8, ROBERTI II. ALEXANDRO SENES-
CALLI, DE TERRIS DE LOUNANE.

ROBERTUS, Dei Gratiâ—Omnibus—Sciatis nos dedisse—
dilecto filio nostro Alexandro Senescalli, genito inter nos
et dilectam nostram Mariotam de Cardnay, omnes et sin-
gulas terras nostras de Lounane, cum pertinentiis, quae
fuerunt quondam Richardi Mouat, infra vicecomitatum
de Forfar; et quas ipse Richardus, non vi aut metu ductus,
nec errore lapsus, sed mera et spontanea voluntate sua
nobis per fustem et baculum sursum reddidit, pureque et
simpliciter resignavit; nec non omnes et singulas terras
nostras de Petfoure, cum pertinentiis, infra vicecomita-
tum de Aberdene. *Tenend. et Habend.* praedicto Alexan-
dro et haeredibus suis, de corpore suo legitime procrean-
dis; quibus forsán deficientibus, dilecto filio nostro Johan-
ni Senescalli, fratri suo de eadem matre, et haeredibus
suis, de corpore suo legitime procreandis; quibus fortas-
se deficientibus, dilecto filio nostro Jacobo Senescalli,
eorum fratri de eaipsa matre, et haeredibus suis, de cor-
pore suo legitime procreandis; quibus vero forsitan defi-
cientibus, ad nos et haeredes nostros Reges Scotiae, per-
petuo et plenarie reversur. de nobis et haeredibus nostris,
in feodo et haereditate—in boscis et planis—cum tenandis,
et servitiis libere tenentium, natis, bondis, bandagiis et
eorum sequelis, tam non nominatis quam nominatis, tam
sub terra quam supra terram, tam procul quam prope, ad
praedictas terras, cum pertinentiis, spectantibus, seu quo-
quomodo spectare valentibus in futurum. *Reddendo* inde
nobis annuatim, et haeredibus nostris, unum denarium
argenti, nomine *Albaefirmae*, apud Lounane, si petatur
tantum; pro wardis, releviis, maritagiiis, curiarum sectis;
ac omnibus aliis secularibus servitiis, exactionibus et de-

mandis ; ac omnibus quae de dictis terris, cum pertinentiis, per quemcunque exigi poterunt vel requiri. In cujus rei testimonium—Testibus—Apud Perth, decimo-quinto die Januarii, Anno Regni nostri duodecimo.

CARTA 13, ROTUL. 8, ROBERTI II. JOHANNI SENESCALLI,
DE TERRIS DE KYNCLEVIN, &c.

ROBERTUS, Dei Gratiâ, Rex Scotorum—Omnibus probis hominibus—Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto filio nostro Johanni Senescalli, genito inter nos et dilectam nostram Mariotam de Cardnay, omnes et singulas terras de Kinclewyn, Erbintolly, Tullibeltyn et Dulmernock minor, cum pertinentiis, in Thanagio de Kynclwyn, infra vicecomitatum de Perth. *Tenend. et Habend.* eidem Johanni et haeredibus suis, de corpore suo legitime procreandis ; quibus forsán deficientibus, dilecto filio nostro Alexandro Senescalli, fratri suo de ipsa matre, et haeredibus suis, de corpore suo legitime procreandis ; quibus quoque fortasse deficientibus, dilecto filio nostro Jacobo Senescalli, fratri eorundem ex ea ipsa matre, et haeredibus suis, de corpore suo legitime procreandis ; quibus utique forsán deficientibus, ad nos et haeredes nostros Reges Scotiae, perpetuo et plenarie reversuras, de nobis et haeredibus nostris, in feodo et haereditate in perpetuum ; libere, quiete, plenarie, bene et in pace, ac honorifice ; per omnes rectas metas et divisas suas, antiquas et novas ; in domibus et maneriis, in boscis et planis, moris, marresiis, viis, semitis, aquis, stagnis et rivulis, ac lacubus, petariis, turbariis, vivariis, pratis, pascuis et pasturis, aucupationibus, venationibus et piscariis, molendinis, multuris, et eorum sequelis, antiquis et novis ; cum curiis, curiarumque sectis,

exitibus et eschaetis; cum tenandiis, et servitiis libere tenentium, nativis, bondis, bondagiis, et eorum sequelis, fabrilibus, brasinis, et aliis officinis quibuscunque; ac cum universis et singulis libertatibus, commoditatibus, aysiamentis, tam non nominatis quam nominatis, tam sub terra quam supra terram; tam procul quam prope, ad praedictas terras, cum pertinentiis, spectantibus, seu quoquomodo juste spectare valentibus in futurum. *Reddendo* inde nobis annuatim, et haeredibus nostris, unum denarium argenti, nomine *Albaefirmae*, apud Kinclewyn, si petatur tantum, pro wardis, releviis, maritagiiis, curiarum sectis, ac omnibus aliis secularibus servitiis, exactionibus, oneribus et demandis, quae de dictis terris, cum pertinentiis, per quemcunque exigi poterunt aut requiri. In cujus rei testimonium—Testibus—Apud Perth, quinto-decimo die Januarii, Anno Regni nostri duodecimo.

CARTA 14, ROBERTI II. ROTUL. 8, JACOBO SENESCALLI, DE TERRIS DE KINFAWNS, RATTE ET FORTEVIOT. VIDE APPENDICEM, NO. 2.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos dedisse concessisse, et hac praesenti Carta nostra confirmasse dilecto filio nostro Jacobo Senescalli, genito inter nos et Mariotam de Cardnay, Orientalem medietatem nostram terrarum de Kinfaawns, cum pertinentiis; ac omnes et singulas terras nostras de Ratte, cum pertinentiis; nec non omnes et singulas terras nostras et molendinum nostrum de Forteviot, cum pertinentiis, infra vicecomitatum de Perth. *Tenend. et Habend.* dicto Jacobo et haeredibus suis, de corpore suo legitime procre-

andis; quibus forsan deficientibus, dilecto filio nostro Alexandro Senescalli, fratre suo de eadem matre, et haeredibus suis, de corpore suo legittime procreandis; quibus fortasse deficientibus, dilecto filio nostro Johanni Senescalli, fratri ipsorum de eaipsa matre, et haeredibus ipsius, de corpore suo legittime procreandis; quibus etiam forsitan deficientibus, ad nos et haeredes nostros Reges Scotiae, perpetuo et plenarie reversur. de nobis et haeredibus nostris, in feodo et haereditate—*Reddendo* inde annuatim nobis et haeredibus nostris, unum denarium argenti, nomine *Albaefirmae*, apud Forteviot, si petatur tantum, pro wardis, releviis, maritagiiis, curiarum sectis, ac omnibus aliis secularibus servitiis, exactionibus, oneribus et demandis, quae de dictis terris, cum pertinentiis, exigi poterunt vel requiri. In cujus rei testimonium—Apud Perth, decimo-quinto die Januarii, Anno Regni nostri duodecimo.

CARTA JOHANNIS COMITIS DE CARRICK, FACTA FILIIS SPU-
RIIS ROBERTI II. REGIS, 1382. EX AUTOGRAPHO.*

JOHN, eldest son to the illustrious King of Scotland, Earl of Carrick and Steward of Scotland; Robert Earl of Fife and Menteth, Alexander Lord Badenoch, sons also to the fore-named King; greeting in the Lord: Forasmeikle as our Lord and Progenitor King of Scotland, has given several lands, to wit, the lands of Ratte, Kinfawns, Kynclwyn, Innerlounan, Lounan, Petfoure, Erbintolly, Tullibeltin, Dulmernock and Forteviot, and ten-mark-lands within the shereffdome of Aberdene, to his natural sons begottin on Marion Cardnay, under certain conditions and

* This Charter I found among the Papers of Sir John Hay of Bara and Lands, Lord Register of Scotland, my worthy Grandfather, one of the greatest ornaments of his age.

forms, as it is contained in his Charters, made to his said sons, more fully. Be it kend to all, That we have fuithfully promised, by the tenour of thir present Letters, that as we may, and ought in justice, we shall maintain and defend them, that they nor none of them shall sustain any injury in the possession of the said lands, nor violence, wherethrow they may be hindered to freely use and enjoy the samyne, notwithstanding of any Estate we may possibly come to. In witness whereof, we have appended our seals to thir presents, to remain with them for their security. Given at Edinburgh, the 21 of June, 1382.

Ita est, per me Dom. Adam Turnbull, capellanum
et notarium publicum.

I have yet another reason which prevails with me, to believe that John Lord Kyle, afterwards Earl of Carrick, was lawful son, and Elizabeth More lawful wife, to King Robert; which is, that in our register books, all public deeds made for the use and behoof of the subject, are either attested or approved by the undoubted heir, *ad majorem evidentiam et securitatem*, for removing all inconveniencies: Accordingly, the Lord Kyle, or Earl of Carrick, being constantly found witness to his father's grants, or approving his charters by a joint assent, or appending his seal thereto, which is equivalent, even to those given to Queen Euphame and her children, with a distinguishing character of eldest son and heir, and other glorious designations, I must draw a strenuous and invincible argument from thence, that he was not liable to any reproach as to his birth, nor his mother to any stain of incontinency and weakness: for if she had been a concubine, or made a slip in the heat of her youth, before she was legally and canonically married to the steward, or if he himself had been born *extra matrimonium*; what could have induced his father to join him as heir, conjunctly

with himself, in the bosom of his Charters, for giving them a fairer appearance of strength? Since the bastard, by the laws and constitutions of our nation, cannot succeed to his father's inheritance, and consequently is no heir; what could have induced the Queen and her children to allow him peaceably, in their papers, the title of *primogenitus et haeres*, and the privilege of appending his seal to their writs, if he had been unlawfully begotten? John Lord Kyle and Earl of Carrick, appending then his seal to the Charters granted by his father and brethren begotten upon Queen Euphame, at their pressing instances, designing himself *eldest son and heir* in those papers where they are so nearly concerned, without being ever quarrelled; and giving his joint assent to King Robert's dispositions, both before and after he was set on the throne; there is no ground for suspecting him to have been a bastard, nor his mother to have been a concubine; as will appear from the following Charters, which do clearly vindicate them from the vile aspersions which Innes, Gray, Hearne, and Sage have thrown upon them, by their false and inconsiderate calculations.

CARTA ROBERTI II. ALANO DE LAWEDRE, TENENTI SUO DE WHITSLADE. IT IS THE 275TH CHARTER OF KING DAVID'S BOOK, FOL. 55, AND THE 4TH CHARTER OF THE FIRST ROLL OF KING ROBERT II., WHICH IS THE 2D ROLL IN THE PUBLIC REGISTERS.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, Salutem. Sciatis nos
quandam Cartam factam per nos, dum eramus Senescallus
Scotiae, Alano de Lawedre, fideli nostro, de mandato
nostro inspectam et diligenter examinatam, non abolitam,

non cancellatam, non rasam, nec in aliqua sui parte vitiatam, intellexisse ad plenum in haec verba: Omnibus hoc scriptum visuris vel auditoris; Robertus Senescallus Scotiae, Comes de Stratherne, salutem in Domino sempiternam. Noverit universitas vestra, nos, de consensu et assensu dilecti primogeniti nostri et haeredis, Johannis Senescalli, Comitis de Carrick, dedisse, concessisse, et hoc praesenti scripto nostro confirmasse dilecto nostro Alano de Lawedre, tenenti nostro de Whitslade,* pro suo bono et fidei servitio, nobis impenso et impendendo, omnia proficua et servitia nobis debita seu debenda; viz. Wardas, cum maritagiis, relevia, annuos redditus, albas firmas, et earum duplicationes; cum curiis, eschaetis, seu curiarum exitibus, et servitiis libere tenentium; de tenandiis de Byrkynsyde, Lygeartwodde, Moryston et Auldynston, cum suis pertinentiis, in perpetuum, quae de nobis tenentur in capite, infra vicecomitatum de Berwico super Twedam. *Tenend. et Habend.* praedicto Alano, haeredibus suis, et suis assignat. dominis de Whitslade, omnia proficua et servitia praedicta, cum omnibus suis pertinentiis, ut praedictum est, de nobis et haeredibus nostris Baronibus de Renfrew, in feodo et haereditate; adeo libere et quiete, plenarie et honorifice, bene et in pace, sicut aliqua proficua et servitia tenentur ab aliquo Comite vel Barone alicui tenenti, pro suo fidei servitio, dari poterunt vel

* The original Charter of the lands of Whitslade, granted to Allan Lawder, belongs to the much honoured Alexander Murray, younger of Stanhope, a gentleman of bright parts, and a great encourager of learning, who was pleased to communicate it to me. It answers exactly the copy found in the registers, excepting that after *escheatis*, there is *sectis curiarum*; that after *Johanne de Lyle, milit.* there is *Johanne Waleys, Roberto de Howston, Johanne Tayt, Johanne Cady, et multis aliis*; that after *In cujus rei testimonium*, there is *praesenti Cartae confirmationis nostrae*; and that it is dated, *Apud S. Andr. decimo die mensis Martii, Anno Regni nostri secundo.*

concedi ; sine aliquo retinemento, in perpetuum, hommagio, vel fidelitate Comitum Marchiae, si nobis debetur, pro tenandia de Byrkynsyde duntaxat ; exceptis proficuis et serviitiis curiae de dicta tenandia in omnibus, ut praedictum est, praedicto Alano, haeredibus suis, et suis assignatis dominis de Whitslade, in perpetuum remansuris. *Redden-*
do inde annuatim, praedictus Alanus, haeredes sui, et sui assignati domini de Whitslade, nobis et haeredibus nostris Baronibus de Renfrew, apud antiquam mansionem de Whitslade, in Festo Nativitatis B. Johannis Baptistae, unum denarium argenti, nomine *Albaefirmae*, si petatur tantum, pro omni alio servitio, exactione saeculari vel demanda, quae per nos vel haeredes nostros, ab ipso Alano, haeredibus suis, et suis assignatis, ut praedictum est, tam pro terris suis de Whitslade, cum pertinentiis, quae de nobis tenentur in capite, infra vicecomitatum de Berviko supra-dictum, quam de omnibus aliis et singulis tenendiis praedictis, vel aliqua parte earundem, exigii poterunt in perpetuum vel requiri. Nos vero Robertus Senescallus Scotiae praedictus, et haeredes nostri praedicti Barones de Renfrew, totam terram de Whitslade, cum serviitiis et proficuis omnium tenentium praedictorum, in omnibus, ut praedictum est, praedicto Alano, haeredibus suis, et suis assignatis, contra omnes mortales warrantizabimus et defendemus. In cujus rei testimonium, Sigillum nostrum, unâ cum Sigillo haeredis nostri praedicti, praesenti scripto fecimus apponi. Apud Renfrew. Hiis testibus, dominis Roberto de Erskyne, Johanne de Danyelston, Adam de Foulerton et Johanne de Lyle, militibus. Quam quidem Cartam, donationemque et concessionem in eadem contentas, in omnibus punctis suis et articulis, conditionibus et modis, ac circumstantiis quibuscunque, forma pariter et effectum, in omnibus et per omnia, approbamus, ratificamus, et pro nobis et haeredibus nos-

tris in perpetuum confirmamus ; salvo servitio nostro. In
cujus rei testimonium, huic praesenti Cartae confirmationis
nostrae, Sigillum nostrum praecepimus apponi. Testibus,
venerab. in Christo patribus Willielmo et Patricio, Sancti
Andreae et Brechinen. Ecclesiarum Episcopis ; Johanne
Primogenito nostro, Comite de Carrick, Senescallo Sco-
tiae ; Roberto Comite de Meneteth ; Alexandro Senes-
calli, militibus, filiis nostris carissimis : Willielmo Comite
de Douglas ; Johanne de Carrick, Canonico Glasguen.
Cancellario nostro : Alexandro de Lyndesay et Roberto
de Erskyne, militibus, consanguineis nostris. Apud Sanc-
tum Andream, tertio-decimo die Junii, Anno Regni nos-
tri primo.

CARTA ROBERTI II. JOHANNI FILIO WILLIELMI, DE 300
PLAUSTRAT. PETARUM. EX AUTOGRAPHO.*

ROBERTUS, Dei Gratiâ—Omnibus probis hominibus—
Cum Johannes filius Willielmi, et Christiana sponsa sua,
ratione dictae sponsae, et haeredes ipsius Christianae, no-
bis et haeredibus nostris Regibus Scotiae, reddere tenean-
tur annuatim, apud manerium nostrum de Forfar, trecen-
tos plaustratus petarum, pro terris de Balmoschenere et
de Tyrebeg, cum pertinent. infra vicecomitatum de For-
far, nosque, apud Forfar, totiens, sicut praedecessores
nostri, residentiam hiis temporibus non faciamus ; conces-
simus dicto Johanni, de gratia nostra speciali, ac de con-
sensu et voluntate Johannis primogeniti nostri, Comitis
de Carrick, Senescalli Scotiae ; Quod praedictus Johannes,
filius Willielmi, sponsa sua praedicta, et haeredes prae-

* This Charter is the 12th of the second roll of King Robert II., which is the third roll of our registers.

nominati, pro dictis trecentis plaustratibus petarum, tantum nobis et haeredibus nostris inveniant, quotiens nos et ipsos apud Forfar venire contigerit, focale, ad sufficientiam pro mora nostra et haeredum nostrorum ibidem facienda. Cum super hoc dictus Johannes, filius Willielmi, sponsa sua supradicta, et haeredes praenotati, rationabiliter fuerint praemoniti, sic quod aliter quam pro deserviendo nobis et dictis nostris haeredibus, de ipso focali ad sufficientiam, quotiens illuc venerimus, aut haeredes nostri venerint, de caetero nullatenus compellantur. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechinen. Dei Gratiâ, Ecclesiarum Episcopis; Johanne primogenito nostro, Comite de Carrick et Senescallo Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas; Georgio de Dumbbar, Comite Marchiae, consanguineis nostris; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Jacobo de Lyndesay, nepote nostro; Hugone de Eglinton et Roberto de Erskyn, militibus, consanguineis nostris. Apud Glasgw, vicesimo-octavo die mensis Octobris, Anno Regni nostri secundo.

CARTA 7, ROTUL. 7, ROBERTI II. WALTERO DE OGYLWY,
DE ANNUO REDDITU 29 LIBRARUM.

ROBERTUS, Dei Gratiâ—Omnibus probis hominibus—Sciatis nos, de consensu et assensu carissimi primogeniti nostri Johannis Comitis de Carrick, Senescalli Scotiae, dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto et fideli nostro Waltero de Ogylwy, militi, pro servitio suo impenso et impendendo, illum annum

redditum 29 marcarum Sterlingor. nobis debitum sive exeuntem de Thanagio de Kyngalvy, infra vicecomitatum de Forfar. *Tenend. et Habend.* eidem Waltero et haeredibus suis, de nobis et haeredibus nostris, in feodo et haereditate, cum omnibus et singulis libertat. commoditat. aysiamen. et justis pertinentiis quibuscunque, ad dictum annuum redditum pertinent. seu juste pertinere valent quomodolibet in futurum: Ita tamen, quod dictus Walterus et haeredes sui, pro eleemosynis Regiis, de dicto annuo redditu alias concess. per praedecessores nostros Reges Scotiae, juste satisfacere teneantur. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum. Testibus—Apud Logyrate, vicesimo-quarto die Octobris, Anno Regni nostri quindecimo.

CARTA ROBERTI SENESCALLI SCOTIAE, FACTA UNI CAPELLANO IN ECCLESIA GLASGUENSI. EX AUTOGRAPHO, 1364.

OMNIBUS hanc Cartam visuris vel audituris, Robertus Senescallus Scotiae, Comes de Stratherne, Salutem in Domino sempiternam. Cum dudum venerabili patri domino Willielmo, Dei Gratiâ, Episcopo Glasguensi, fuerit per litteras Apostolicas specialiter delegatum, ut super matrimonio contrahendo inter nos et **quondam Elizabeth*

* This Charter was first published by Mr. Innes, primar of the Scots College, in 1695, Parisiis; *Ex Typographia Francisci Muguet, Regis Christianissimi, et Cleri Gallicani Typographi*; with a preface and notes. Don John Mabillon caused insert the whole pamphlet in his elaborate treatise, entitled, *Supplementum Librorum de re Diplomatica*, printed by Robustel, anno 1704. The Right Honourable Earl of Cromerty gave us also an edition thereof in 1695, printed at Edinburgh by the heirs of Andrew Anderson. Of late the incompatible Mr. Hearne, so much admired for his excellent writings, hath ordered it to be reprinted at Oxford, in his Appendix to Fordun. Long before it was exposed to the view

More, dum ageret in humanis, non obstante impedimento consanguinitatis et affinitatis, contractui matrimoniali prae-

of the world, I had a copy thereof, taken from the extracts of the two register-books of Glasgow, some few years before they were carried abroad by Bishop Beaton. The Charter itself shows us evidently, *1mo*, That Robert II., whilst Steward of Scotland, had applied himself to his Holiness, for a dispensation or licence to marry Elizabeth More, notwithstanding the degrees of consanguinity or affinity wherein they stood. *2do*, That William Bishop of Glasgow, who succeeded John Lindsay, having taken the business to consideration, had supported and countenanced his design as subdelegate, that is to say, as having a full power and commission for that effect from Avignon. *3tio*, That Robert Stuart had promised faithfully to execute whatsoever had been enjoined and ordered him by the Bishop; but being hindered probably by the heat of the wars that continued till King David's return to Scotland in 1357, and by some other difficulties he fell under whilst the King adhered to Margaret Logie, whom he took to his second wife, he had not been able to fulfil his ancient bond till 1364; at which time he mortified ten merks Sterling, payable out of the Carse of Stirling, by the Abbot and Convent of Holyroodhouse of Edinburgh, for the use and maintenance of a chaplain, who was to officiate at the appointed altar, in the Cathedral Church of Glasgow. Whence it is plain, that the dispensation was obtained, and that the marriage was solemnized, otherwise he had not founded the forementioned chaplainry. *Noverit universitas vestra, nos, ex causa praemissa, dedisse, &c.* And it appears by the terms of the Charter, that Elizabeth, his spouse, was dead and buried several years before the grant of the ten merks Sterling; *Super matrimonio contrahendo inter nos et quondam Elizabeth More, dum ageret in humanis.* Which entirely overturns Buchanan's scandalous topics concerning her marriage, after Queen Euphame's death. Yet this authentic Charter, curiously examined and compared a-new with Mr. Innes' paraphrase or notes, does not furnish us any weighty proof for confuting the latter part of Buchanan's impudent story, nor stop the mouths of the enemies of our monarchy; for though Elizabeth had been really joined in marriage with the Steward, as I firmly believe, though she was dead in 1364, which is evident; this does not make her his lawful wife, whilst she bore John, Walter, Robert, and Alexander, since Fordun's Continuator shews us positively, that she was at that time his whore. *Iste Robertus copulavit sibi de facto unam de filiabus Adae More, militis, de qua genuit filios et filias extra matrimonium.* To which Innes agrees, in his Chronological Account of King Robert, p. 10, in the following words: *Circa 1340, Robertus desponsat Elizabetham More.* As doth likewise the Earl of Cromerty, p. 33. of his Vindication of Robert III., who allows the contract of marriage to have been made only ten or twelve years before the date of the *Carta Authentica*, or at most twenty years before King Robert mounted the throne, which will be in the 1351, 52, or

dicto impedimentum praestante, auctoritate Apostolica dispensaret, dummodo duas Capellas, vel unam, pro arbitrio ipsius Episcopi, perpetuo fundarem: Ac dictus Venerabilis Pater, consideratis in hac parte considerandis, nobiscum super impedimento praedicto, auctoritate qua supra, dispensans, nobis injunxerit, ut una Capellania in Ecclesia Glasguensi, ad unum certum altare, ad pensionem decem marcarum Sterlingorum, annuatim percipiendam de certis redditibus nostris, fundaretur perpetuo; nosque eandem Capellaniam sic fundare fideliter promiserimus, infra certum tempus jam transactum, nobis tunc per dictum episcopum limitatum: *Noverit Universitas vestra* nos, *ex causa praemissa*, dedisse, concessisse, et hac praesenti Carta nostra confirmasse, pro nobis et haeredibus nostris perpetuo, Deo, B. Mariae Virgini, B. Kentegerno, et uni Capellano celebranti, et celebraturo perpetuo in Ecclesia Glasguensi praedicta, decem marcas Sterlingorum, ad sustentationem ejusdem Capellani, annuatim percipiendas de annuo redditu quadraginta librarum Sterlingorum exeunte de terra *Del Cars Abbatis*, infra vicecomitatum de Stryve-

54th year of Christ. Neither doth the designation of *eldest son and heir*, assumed by the Lord Kyle in his father's mortification, or his seal appended thereto, prove invincibly that he was of a lawful issue, since Bowmaker assures us, that *secundum Canones, matrimonium sequens legitimat filios natos ante matrimonium*. Which is Mr. Sage's scheme. According to which doctrine, John Lord Kyle might have taken the title of *Primogenitus*, as being his father's eldest son, born before the other children, notwithstanding he was procreate and begot *extra matrimonium*. So that there is no solid conclusion can be drawn against Buchanan, our late writers, nor Fordun's Continuators, from the above Charter, except the forenamed gentlemen allow the marriage to have happened in the year 1334, as I shall endeavour to show it did: Otherwise, let them put what construction they please upon that Charter, they will never make them lawful children thereby, as long as they adhere to their false and romantic supputations, nor draw any convincing consequence therefrom, for supporting their scheme against Buchanan and his party.

lyne, et nobis et haeredibus nostris debito per religiosos viros, abbatem et conventum *Monasterii* Sanctae Crucis de Edynburgh : Tenend. Habend. et Percipiend.* annuatim in perpetuum, eidem Capellano qui pro tempore fuerit, per manus dictorum religiosorum, ad terminos Pentecostes et Sancti Martini in hyeme, per portiones aequales, in liberam, puram et perpetuam elymosinam; adeo libere, quiete, plenarie et honorifice, sicut aliqua elymosina per totum Regnum Scotiae, liberius conceditur, percipitur, sive datur. Et nichilominus, totum jus nobis competens per Cartam infeodationis recolendae memoriae Domini Regis Roberti avi nostri, sive obligatorium dictorum abbatis et conventus, seu quascunque alias evidencias, ad compellendum dictos abbatem et conventum ad solutionem dicti annui redditus decem marcarum, in Episcopum Glasguensem, qui pro tempore fuerit, et Capitulum Glasguense, sede vacante, per hanc Cartam nostram perpetuo transferimus, ipsosque et eorum alterum, quantum ad hoc, nostros et haeredum nostrorum assignatos et assignatum facimus, constituimus, et etiam ordinamus. Et si forte contingat, quod absit, quod dictae decem marcae annuae, per dictum Capellanum qui pro tempore fuerit, percipi non potuerint, ut est dictum; vel ex eo quod dicti abbas et conventus solvere noluerint, aut compelli non potuerint ad solutionem earundem; vel ex eo quod nos, aut aliquis haeredum nostrorum, contra praesentem infeodationem et concessionem nostram, solutionem dictarum decem marcarum impediverimus aut impediverit, aut per nos, seu alium vel alios, clam vel palam, directe vel indirecte, procuraverimus seu procuraverit impediri, obligamus nos et haeredes nostros, per omnia bona nostra,

* See Appendix, No. III.

mobilia et immobilia, ad solvendum dictas decem marcas, de aliis redditibus nostris, ubi Episcopus Glasguensis, qui pro tempore fuerit, vel capitulum ejusdem, sede vacante, duxerit eligendum, toto tempore quo cessatum fuerit a solutione dictarum decem marcarum, percipiend. de annuo redditu supradicto: Subjicientes nos et haeredes nostros jurisdictioni et coercioni Episcopi Glasguensis et ipsius officialis, qui pro tempore fuerint; ut ipsi, per omnimodam censuram ecclesiasticam, nos et haeredes nostros compellere valeant ad perficienda omnia et singula supradicta, in casu quo defecerimus vel defecerint, quod absit, in aliquo praemissorum. Et, ultra omnia praenotata, nos et haeredes nostri praedicti, donationem et concessionem nostram de dictis decem marcis annuis percipiendis, ut supra, de annuo redditu supra-dicto, praedictis Episcopo, Ecclesiae Glasguensi, et Capellano qui pro tempore fuerint, contra omnes homines et foeminas warrantizabimus, acquietabimus, et in perpetuum defendemus. In cujus rei testimonium, Sigillum nostrum, unâ cum Sigillo Johannis Senescalli, Domini de Kyle, primogeniti et haeredis nostri, praesentibus est appensum. Hiis testibus, venerabili patre domino Roberto, Abbate Monasterii de Kylwynnyne, et dominis, Johanne Senescalio, fratre nostro, Hugone de Egglyntonne et Thoma de Fauside, militibus; Johanne Mercer, Burgensi de Perth; Johanne de Rose et Johanne de Tayt, armigeris nostris, et aliis. Apud Perth, duodecimo die mensis Januarii, Anno Domini, millesimo, tricentesimo sexagesimo-quarto.

[*No Seals nor Tagues.*]

CARTA 97, ROTUL. 4, ROBERTI II. REGIS, CONFIRMATORIA
 CARTAE WALTERI SENESCALLI, DOMINI DE BRECHYN,
 FACTA THOMAE DE RATE.

ROBERTUS, Dei Gratiâ, Rex Scotorum—Omnibus probis hominibus—Sciatis nos Cartam confirmationis dilecti filii nostri Walteri Senescalli, et Margaritae sponsae suae, filiae et haeredis quondam David de Berklay de Brechyn, militis, factam dilecto et fideli nostro Thomae de Rate, super medietate Tenementi de *Arroch*, cum pertinentiis, in Baronia de Brechin, infra vicecomitatum de Forfar, de mandato nostro visam, lectam et diligenter examinatam, intellexisse ad plenum, de verbo in verbum, sub hac forma : * *Universis* ad quos praesentes litterae pervenerint, praesentibus et futuris, *Walterus Senescalli*, filius magnifici principis Domini Roberti, Dei Gratiâ, Regis Scotorum illustris, et Dominus Baroniae de Brechin, infra vicecomitatum de Forfar; et Margareta sponsa sua, filia et haeres quondam Domini David de Berklay, Domini dictae Baroniae, Salutem in Domino sempiternam. *Noveritis* nos, et quemlibet nostrum, post matrimonium inter nos solemniter contractum in facie Ecclesiae, et postquam vestiti et saisiti fuimus, ut de feodo de dicta Baronia de

* This Charter, which immediately follows the authentic evidence published by Mr. Innes, is one of the most valuable documents that Europe can afford, for supporting my sentiment and refuting Buchanan's dreams; for if the foundation made by King Robert in the Church of Glasgow, shows that Elizabeth More was dead in 1364, this confirmation of the lands of Arroch proves to a demonstration that Queen Euphame was alive in 1378, which was five years after Buchanan puts her in her grave; and consequently, that the marriage he patches up betwixt Elizabeth and King Robert, the third year of his reign, is inconsistent with the truth and our histories, since Elizabeth was really dead and in the dust in 1364, and therefore could not have married the King, who was then no widower, and that Queen Euphame was as yet alive in 1378, since she appended her Seal that same year to her son's writs, grants, and concessions.

Brechin, cum pertinentiis, autoritate Domini nostri Regis, et ex dispensatione ipsius, qui nobis infra aetatem legitimam constitutis, prius veniam aetatis concessit; et de unanimi consensu nostro, et assensu nostro, et nostrorum cujuslibet, nec non de voluntate et licentia Domini nostri Regis praedicti, ac de consilio et consensu aliorum parentum et amicorum nostrorum, ratificasse, approbasse, et hac praesenti Carta nostra confirmasse, pro nobis et altero nostrum, ac nostris haeredibus quibuscunque, illas venditionem, et titulo venditionis, concessionem, quae *David de Arroch* fecit per Cartam suam Thomae de Rate, Domino de Swres, de sua medietate *Tenementi de Arroch*, cum pertinentiis, in *Baronia de Brechin* praedicta, infra vicecomitatum de Forfar. *Tenend. et Habend.* eidem Thomae, et haeredibus suis vel assignatis, de nobis et haeredibus nostris de corporibus nostris procreandis; alioquin, ipsis deficientibus, de veris et legitimis haeredibus mei, Margaritae filiae et haeredis quondam Domini David de Berklay praedicti, in feodo et haereditate, per omnes rectas metas et divisas suas—adeo libere, quiete, plenarie, integre et honorifice—cum omnibus libertat. commodit. et aysiament. ac justis pertinentiis quibuscunque, in omnibus et per omnia, sicut Carta venditionis praefati *David de Arroch* eidem Thomae de Rate, exinde sine aliquo retinemento confecta, in se plenius continet et proportat. *Faciendo* nobis et dictis haeredibus nostris, dictus Thomas de Rate, et haeredes sui vel assignati, servitium de dicta medietate illius *Tenementi de Arroch*, per dictum *David de Arroch* et antecessores suos, nobis et nostris antecessoribus, debitum et consuetum. Et insuper ego Margareta praedicta, filia et haeres predicti quondam domini David de Berklay, et sponsa praefata domini mei Walteri, filii domini nostri Regis; bona fide promitto, Quod si contingat me, post mortem praefati Domini mei esse superstitem, nullo

haerede inter nos procreato, quod absit, superstite, praefatas ratificationem, approbationem et confirmationem, in omnibus et per omnia, ut praedictum est, factas, ut supra, ratas et firmas habebō perpetuo, nec contra ipsas veniam, nec procurabo venire, directe vel indirecte, publice vel occulte. In cujus rei testimonium, Sigillum *Dominae nostrae Dominae Reginae*, et Sigillum *Magnifici Domini Domini Johannis*, Comitis de Carrick et Senescalli Scotiae, fratris nostri, unâ cum Sigillis nostris propriis, praesentibus sunt appensa. Datum apud Sconam, in pleno Parlamento domini nostri Regis tento ibidem, decimo-nono die mensis Octobris, Anno Domini 1378. Regni vero ipsius Domini Regis, octavo. Quam quidem Cartam, confirmationemque in eadem contentas, in omnibus punctis, articulis, conditionibus, modis ac circumstantiis suis quibuscunque, forma pariter et effectū, in omnibus et per omnia approbamus, ratificamus, et pro nobis et haeredibus nostris in perpetuum confirmamus, salvo servitio nostro. In cujus rei testimonium, praesenti Cartae nostrae confirmationis, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patre, domino Willielmo, permissione Divina, S. Andreae Episcopo; ac nobilibus viris ac potentibus, Johanne Primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto de Fyfe et de Meneteth, filio nostro dilecto; Willielmo de Douglas et de Mar, consanguineo nostro, Comitibus; venerabili viro magistro Johanne de Peebles, Archidiacono S. Andreae, Cancellario nostro; Jacobo de Lyndesay, nepote nostro carissimo, et Alexandro de Lyndesay, militibus. Apud Sconam, vicesimo-secundo die mensis Octobris, Anno Regni nostri octavo.

CARTA DAVIDIS REGIS, ROBERTO SENESCALLO SCOTIAE, ET EUFAMIAE SPONSAE SUAE. EX AUTOGRAPHO. IT IS RECORDED IN KING DAVID'S BOOK, FOL. R. 51, AND IS THE 253D CHARTER GRANTED ANNO 1370.

DAVID, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus—Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse carissimo nepoti nostro Roberto Senescallo Scotiae, et Eufamiae sponsae suae, totam Baroniam de Methfen, cum pertinentiis, infra vicecomitatum de Perth; quae quidem Baroniam, cum pertinentiis, fuit dicti nepotis nostri, et quam idem nepos noster, non vi aut metu ductus, nec errore lapsus—in manus nostras sursum reddidit, pureque et simpliciter resignavit—*Tenend. et Habend.* dicto nepoti nostro, et Eufamiae Comitissae Moraviae, sponsae suae dilectae, consanguineae nostrae, et haeredibus dicti nepotis nostri legitimis quibuscunque, de nobis et haeredibus nostris, in feodo et haereditate in perpetuum, per omnes rectas metas et divisas suas, in unam integram et liberam Baroniam—Cum servitiis libere tenentium ejusdem, et advocationibus ecclesiarum ejusdem. *Faciendo* inde praedictus nepos noster, et Eufamia sponsa sua, et eorum alter diutius vivens, et haeredes dicti nepotis nostri, servitia nobis debita et consueta. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Patricio, Cancellario nostro, S. Andreae et Brechinen. ecclesiarum episcopis; Johanne Primogenito nepotis nostri, Comite de Carrick; Willielmo Comite de Douglas, Roberto de Erskyne et Willielmo de Deschyngton, militibus. Apud Edinbrugh, decimo-septimo die Septembris, Anno Regni nostri quadragesimo-primo.

CARTA ROBERTI II. FACTA EUFAMIAE REGINAE, ET DAVIDI COMITI DE STRATHERNE, DE CASTRO LACUS DE LEVYN. EX AUTOGRAPHO. IT IS THE 325TH CHARTER OF KING DAVID'S BOOK, FOL. R. 66, AND THE 12TH CHARTER OF THE FIRST ROLL OF KING ROBERT II. WHICH IS THE 2D ROLL OF OUR RECORDS. TO BE HOLDEN WITHOUT ANY SERVICE, PAYMENT OF RENT, VASSALAGE OR BURDEN.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus suis, ad quos praesentes litterae pervenerint,
Salutem. Sciatis nos dedisse, concessisse, et hac praesenti
Carta nostra confirmasse *carissimae Sociae nostrae Eufa-
miae Reginae Scotiae*, castrum nostrum Lacus de Levyn,
cum pertinentiis; et ad sustentationem ejusdem castri,
terras infra-scriptas, viz. Enachre, Caslygowre, Glaslochy,
Bondland de Kynross; cotagia et molendinum, ac annuos
redditus hostilagiorum villae de Kynross; nec non terram
de Cultbuy, duo Tulliochys, Maucuych, Latharach, Come-
naygne, Drumgarlet, Techyntulchy, Auchteveny, Mawer-
ler, et medietatem villae de Urwelle, Croftmartyn, Braci-
nam, Brochlach, et annum redditum de Culcarny, cum
pertinent. infra vicecomitat. de Kynross. *Tenend. et Habend.*
dictae *Eufamiae Sociae nostrae*, et carissimo filio nostro et
suo, David Comiti de Stratherne, et eorum alteri diutius vi-
venti, Castrum, Terras, molendinum et annuos redditus su-
pradict. cum pertinentiis, de nobis et haeredibus nostris,
per omnes rectas metas et divisas suas—libere, quiete,
plenarie, integre et honorifice, bene et in pace; cum om-
nibus libertat. commod. aysiamen. et justis pertinentiis
quibuscunque, tam non nominatis quam nominatis, ad
praefatum Castrum, Terras, molendinum, et annuos red-
ditus spectantibus, seu juste spectare valentibus in futu-

rum, pro toto tempore vitae dictorum Sociae nostrae, et David filii nostri et sui, et cujuslibet eorundem—In cujus rei testimonium, praesentibus, pro toto tempore vitae dictorum Sociae nostrae, et David filii nostri et sui, duraturis, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechinen. Ecclesiarum, Dei Gratiâ, episcopis; Johanne Primogenito nostro, Comite de Carrick et Senescallo Scotiae; Roberto Comite de Meneteth et Alexandro Senescalli, filiis nostris carissimis; Willielmo Comite de Douglas, consanguineo nostro; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Hugone de Eglintone et Roberto de Erskyne, militibus. Apud Edinbrugh, octavo die mensis Maii, Anno Regni nostri secundo.

CARTA 300, ROBERTI II. DAVIDI SENESCALLI, DE COMITATU DE STRATHERNE, FOL. R. 60 OF KING DAVID'S BOOK.*

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus—Sciatis quod concessimus David Senes-
calli militi, Comitatum de Stratherne, cum pertinentiis.
Tenend.—Quae ad liberam Regalitem pertinent, seu
debent, secundum Regni leges et consuetudines, pertinere.
Quare omnibus et singulis Comitatus praedicti, &c. fa-
ciant ab aliis temporibus futuris responderi. In cujus rei
testimonium, praesenti Cartae nostrae Sigillum nostrum

* This book of King David's, so oft mentioned, is a large *quarto*, composed of 66 leaves of vellum. It contains 325 curious Charters, whereof there are 274 granted by King David the Bruyse: The first is a confirmation of a Charter of John de Grahame; and the last, a liberty to the Bishops *de condendis Testamen- tis*, *Fol. Versa* 54. The rest, from the 55th leaf to the 66th, contains 53 Charters granted by Robert II. the 1st and 2d year of his reign, and are correctly transcribed for the most part in his rolls: The first being a confirmation of the

praecepimus apponi. Testibus, venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechinen. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Meneteth, Alexandro Senescalli, filiis nostris carissimis; Willielmo Comite de Douglas, Johanne de Carrick, Canonico Glasguensi, Cancellario nostro; Alexandro de Lyndesay, Roberto de Erskyne, militibus, consanguineis nostris. Apud Perth, tertio die mensis Julii, Regni nostri anno primo.

*'Tis transcribed verbatim in the same book, Fol. R. 58.
but wants the Witnesses.*

CARTA ROBERTI II. DAVIDI SENESCALLI, DE COMITATU DE STRATHERNE. IT IS THE 301ST CHARTER OF KING DAVID'S BOOK, FOL. R. 60.*

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, clericis et laicis, Sa-
ludem. Sciatis quod concessimus *David Senescalli militi*

Lands of Whitslade to Allan Lawedre, *Anno Regni primo*; and the last, a Grant of the Castle of Lochlevin to Queen Euphame, *Anno Regni secundo*. The book ends by *Officium Coronatoris infra vicecomitatum de Aire*, given *Hugoni de Rathe, tanquam substituto domini Johannis de Lyndesay de Thoristoun, militis*. *Apud Edinbrugh, nono die Aprilis, Anno Regni Regis secundo*. They are writ in a very good character; the first page is spoiled and obliterate: It commences with King David's Concessions made the 33d year of his Reign; so that his Charters of a more ancient date are lost, and not recorded in our public Archives. The small and scattered remains of this Register book had been miserably destroyed, if they had not been carefully gathered together and drawn out of the rubbish by Mr. John Corss, a person of great integrity, who caused them to be handsomely bound, upon his own charges, in red *russia* leather, for preserving them from the dust and moistness.

* See Appendix, No. IV.

filio nostro carissimo, *Comitatum de Stratherne*, cum pertinentiis. *Tenend. et Habend.* sibi et haeredibus suis, in omnibus et per omnia, juxta formam et tenorem Cartae sibi exinde confectae ; et adeo libere, quiete, plenarie, integre et honorifice, in omnibus et per omnia, sicut quondam *Malisius Comes de Stratherne*, vel aliquis alius comes ejusdem, ipsum comitatum, cum pertinentiis, aliquo tempore liberius, quietius, plenius, integrius et honorificentius, juste tenuit seu possedit ; cum additione subscripta, Quod ipse et haeredes sui, dictum comitatum, ac omnes alias et singulas terras, tenandias et tenementa, cum pertinentiis, quae tenentur et tenebantur antiquitus de ipso comitatu, ubicunque infra Regnum nostrum, habeant, teneant et possideant perpetuo in libera regalitate, cum feodis et forisfacturis, et cum placitis quatuor punctorum coronae nostrae ; et cum omnibus aliis et singulis honoribus, libertat. commod. aysiament. et justis pertinentiis quibuscunque, quae ad veram regalitatem pertinent, seu debent, secundum Regni nostri leges et consuetudines, pertinere. *Reddendo ipse David* et haeredes sui, de dicto comitatu, cum pertinentiis, unum par calcarium deauratorum, nomine *Albaefirmae*, apud Dulye, ad Festum Nativitatis .B. Johannis Baptistae, annuatim, si petatur tantum, pro warda, relevio, maritagio, ac omnibus aliis et singulis servitiis saecularibus, exactionibus seu demanda, quae de dicto comitatu exigi poterunt vel requiri. Quare omnibus et singulis comitatus praedicti, ac aliis et singulis quorum interest, vel interesse poterit, damus, pro nobis et haeredibus nostris, tenore praesentium, in mandatis, quod dicto comiti et haeredibus suis, in hiis quae ad liberam regalitatem pertinent, respondeant, et prout ad ipsos et ipsorum quemlibet pertinet, faciant ab aliis futuris temporibus responderi. In cujus rei testimonium, praesenti Cartae nostrae Sigillum nostrum praecepimus apponi. Testibus,

venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechinen. Ecclesiarum Episcopis; *Johanne Primogenito nostro*, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Meneteth, Alexandro Senescalli, filiis nostris carissimis; Willielmo Comite de Douglas; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Roberto de Erskyne et Hugone de Eglintone, militibus, consanguineis nostris. Apud Methfen, decimono nono die Octobris, Anno Regni nostri secundo.

CARTA 91, ROTUL. 4. ROBERTI II. FACTA JACOBO DE DOUGLAS DE LYDDESDAILE, FILIO SUO.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto filio nostro Jacobo de Dowglas de Lyddesdaile, militi, filio carissimi consanguinei nostri Willielmi Comitis de Dowglas et de Mar, ducentas marcas Sterling. pro *servitio et retinentia suis*, nobis, et carissimo primogenito nostro Johanni Comiti de Carrick, Senescallo Scotiae, impenso, et pro toto tempore ipsius Jacobi, nobis et dicto filio nostro, nec non nostrorum diutius viventi, impendendo. *Tenend. Habend. et Percipiend.* annuatim, eidem Jacobo et haeredibus suis, de nobis et haeredibus nostris, in feodo et haereditate, in burgo nostro de Haddington, de magna custuma nostra, et nostris redditibus ejusdem burgi, per manus custumar. et balivorum nostrorum dicti burgi qui pro tempore fuerint, ad terminos *Pentecostes et S. Martini in hyeme*, per aequales portiones. Et si per guerram vel alio eventu contingat, quod ibi deficiat, alibi in Regno nostro per manus camerarii nostri qui pro tempore fuerit, libere,

quiete, bene et in pace, quousque per nos vel haeredes nostros, dictus Jacobus vel haeredes sui, de ducentis marcatis terrae, in loco competenti haereditarie fuerint infeodati. *Quare* dictis Custumariis, et Ballivis nostris dicti burgi nostri qui pro tempore fuerint, et camerario nostro, in dicto eventu, qui pro tempore fuerit, damus, tenore praesentium, firmiter in mandatis, quatenus dicto Jacobo et haeredibus suis, dictas ducentas marcas Sterlingor. annuatim, medio tempore, sine difficultate persolvant ; quas sibi in compositionis suis annuis, volumus et praecepimus per praesentes plenius allocari. Volumus etiam, quod si dicti Custumarii habeant de nostris sufficienter ad satisfaciendum sibi ad dictos terminos, et super hoc requisiti, noluerint hoc facere, requirat camerarium nostrum qui pro tempore fuerit ; et si nec camerarius, sic requisitus, sibi satisfaciat, ex tunc liceat sibi distringere ipsos Custumarios nostros qui pro tempore fuerint, quousque dicto Jacobo vel haeredibus suis plene fuerit satisfactum. In cujus rei testimonium, praesenti Cartae nostrae nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Johanne, Cancellario nostro, S. Andreae et Dunkeld. Ecclesiarum Episcopis ; Johanne primogenito nostro de Carrick, Senescallo Scotiae ; Roberto de Fyfe et de Meneteth, filio nostro dilecto ; Willielmo de Douglas et de Mar, consanguineo nostro, Comitibus ; Jacobo de Lyndesay, nepote nostro carissimo, et Alexandro de Lyndesay, consanguineo nostro, militibus. Apud Edinbrugh, quinto-decimo die mensis Maii, Anno Regni nostri decimo.

CARTA 3, ROTUL. 7, ROBERTI II. WILLIELMO DE DOWGLAS,
ET AEGIDIAE SPONSAE SUAE, DE 300 LIB. STERLINGOR.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto et fideli nostro Willielmo de Dowglas militi, filii domini Archibaldi de Dowglas militis, domini Galwidiae, consanguinei nostri, et Ægidiae carissimae filiae nostrae, in matrimonium inter ipsos Willielmum et Ægidiam legittime faciendum, trecentas libras Sterlingor. exeunt. et percipiend. dictis Willielmo et Ægidiae, eorumque diutius viventi, et haeredibus inter ipsos legittime procreandis, de magna custuma nostra quatuor Burgorum nostrorum de Edinbrugh, Lithcw, Dundee et Aberdene ; et deficiente de uno Burgorum dictorum, capiend. totalem summam de caeteris tribus Burgis praenominatis ; deficiente autem de tribus, capiend. totalem de reliquis duobus Burgis ; deficiente utique de duobus, capiend. totale de quarto eorum ; deficiente vero de ipsis quatuor Burgis, capiend. totale de residuis Burgis nostris ubi sibi melius videbitur expediens, in foedo et haereditate in perpetuum, libere et quiete, quousque nos vel haeredes nostri infeodaverimus vel infeodaverint, ipsos *Willielmum et Ægidiam*, et eorum diutius viventem, ac eorum haeredes inter ipsos legittime procreandos, de trecentis libratis terrae in convenienti loco. Quibus tamen Willielmo et Ægidia, et eorum haeredibus procreatis forsan deficientibus, quod absit, tam trecentae librae, quam dictae trecentae libratae terrae, ad nos et haeredes nostros plenarie et libere revertantur. In cujus rei testimonium, praesenti Cartae nostrae magnum Sigillum nostrum apponi praecepimus. Hiis testibus, venerab. in Christo patribus,

Willielmo et Johanne, Cancellario nostro, Dei Gratiâ, S. Andreae et Dunkelden. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto de Fyfe et de Meneteth, Jacobo de Dowglas, filiis nostris carissimis; Archibaldo de Dowglas et Roberto de Erskyne, militibus, consanguineis nostris dilectis. Datum apud Sconam, die vicesimo-sexto mensis Decembris, Anno Regni nostri quinto-decimo.

CARTA ROBERTI II. FACTA JACOBO DE SANDYLANDIS, DE TERRIS DE MODERWALLE, &c. EX AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-bis hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto et fideli nostro Jacobo de Sandylandis militi, Baroniam de Dallyel et de Moderwalle, Baroniam de Wiston, cum pertinentiis, infra vicecomitatum de Lanark; terras de Ochterbarnock et de Ochbeset, et de Slamanameure, cum pertinentiis, infra vicecomitatum de Strivelyne; quae fuerunt dicti Jacobi, et quas dictus Jacobus, non vi aut metu ductus, nec errore lapsus, sed mera et spontanea voluntate sua, sursum reddidit et resignavit. *Tenend. et Habend.* eidem Jacobo, et Johannae filiae nostrae carissimae, quam idem Jacobus, Deo duce, ducet in uxorem, et eorum alteri diutius viventi, ac haeredibus inter ipsos legitime procreandis; quibus forte deficientibus, haeredibus dicti Jacobi legitimis quibuscunque, de nobis et haeredibus nostris, in feodo et haereditate, per omnes rectas metas et divisas suas; cum omnibus et singulis libertat. commoditat. ay-siamen. et justis pertinent. quibuscunque ad dictas baronias et terras, cum pertinentiis, spectantibus, seu juste

spectare valentibus in futurum; adeo libere et quiete, plenarie, integre et honorifice, in omnibus et per omnia, sicut dictus Jacobus, dictas baronias et terras, cum pertinentiis, de nobis, ante resignationem suam nobis exinde factam, liberius et quietius, juste tenuit seu possedit: *Faciendo* inde servitia debita et consueta. In cujus rei testimonium, praesenti Cartae nostrae nostrum fecimus apponi Sigillum. Testibus venerab. in Christo patribus Willielmo et Johannaë, S. Andreae et Dunkelden. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Fyfe et de Meneteth, filio nostro carissimo; Jacobo Comite de Dowglas, filio nostro praedilecto; Archibaldo de Dowglas et Roberto de Erskyne, militibus, consanguineis nostris. Apud Edinbrugh, vicesimo die Novembris, Anno Regni nostri quarto-decimo.

The seal white wax, on a tague of parchment; on one side, the King a-horseback, his sword in one hand, and his shield in the other, bearing a lyon rampant, within a double tressure, fleurie and counter fleurie: On the reverse, the King in his seat of justice.

CARTA ROBERTI II. FACTA JACOBO SANDYLANDIS, DE CASTRIWARDA DE CALDORE. EX AUTOGRAPHO.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probris hominibus totius terrae suae, clericis et laicis, Salutem. Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto filio nostro Jacobo de Sandylandis* militi, illos quadraginta solidos Sterlingor.

* The first lands I find granted to this family, in the Charter-chest of Torphichen, are those of Craglokard and Stanipeth, given *Jacobo de Sandylandis* by

nobis debit. sive exeuntes pro Castriwarda Baroniae de Caldore. *Tenend. et Habend.* eidem Jacobo et Johanna

King David; and upon his resignation thereof, he obtained of that prince, annuos redditus, debitos sive exeuntes de Horsebruk et de Heschelys, infra vicecomitatum de Peebles, quousque sibi de tanta terra fuerit in loco competenti provisum. The Charter is dated at Lanark, sexto die Octobris, Anno Regni sui septimo-decimo. Willielmus de Douglas, dominus loci ejusdem gives Jacobo de Sandylandis, Armigero suo dilecto et fideli, pro hommagio et servitio suo, omnes terras del Sandylandis et del Rydnure, cum pertinentiis, infra dominium suum Vallis de Dowglas, cum orientali parte terrae de Pollynsygh, prout aqua de Dowglas currit, ascendendo ad duas arbores de Byrks, ex occidentali parte de Halleford, ex opposito del Haynyngschaw, quae est infra Baron. de Lesmahagow, &c. Apud Castrum de Edinbrugh, die Jovis proxima ante Festum Natalis Domini, Anno Gratiae 1348. The same William Douglas designed as before, grants Jacobo de Sandylandis, et Eleonorae de Bruys, sorori suae, totam baroniam de Westercaldore, cum omnibus suis pertinentiis, in liberum maritagium. Testibus, venerabili in Christo Patre Domino Thoma, Dei Gratiâ, Abbate Sanctae Crucis de Edinbrugh; Thoma Senescalli, Comite de Angus; Domino David de Lyndesay, Domino de Crawford; Willielmo de Dowglas, Domino Vallis de Liddale, Domino Andrea de Dowglas et Domino Johanne de Douglas, militibus; et Domino Richardo Smalle, Rectore Ecclesiae de Rachaw, et multis aliis. The seal red, upon white wax, on a tague of parchment; in a shield, a hart not crowned; on the chief, three mollets; the counter-seal on the back not discernable. This gift is confirmed by Duncan Earl of Fife, and King David. The last Charter is dated Apud Dundee, in Parlamento suo ibidem tento, quinto-decimo die Maii, Anno Regni sui vicesimo-primo. About the beginning of the Reformation, Sir James Sandylandis, a son of this house, Lord St. John, finding the original foundation of Torphiphen to be abrogate and cancelled, by the Act of Parliament in 1560, resigned that preceptory, the chief residence of the Knights of the Order of St. John of Jerusalem, and Temple of Solomon in Scotland, in Queen Mary's hands, ad perpetuam remanentiam; and upon a reasonable composition, got that military benefice erected, in his favours and to his heirs and assignees, by her highness, in a temporal lordship, composed of the baronies of Torphiphen, Liston, Balintrod, Tankertoun, Denny, Maryculter, Stanhop, and Galtna, lying within the sheriffdoms of Edinbrugh, Peebles, Lithgow, Strivelyne, Lanark, Kincardine, and stewartry of Kirkcudbright; Cum libera Capella et Cancellaria, infra bondas dictarum terrarum, et advocationibus et donationibus Ecclesiarum, Capellaniarum et beneficiorum dictarum terrarum, et baroniarum; with the teinds and patronage of the vicarage of Maryculter, of the kirks of Tulloch and Aboyne in the north, and of the churches of Inchinin and Torphiphen. The whole baronies and lands before specified were united and incorporate

sponsae suae, filiae nostrae carissimae, et eorum alteri diutius viventi, haeredibusque, inter ipsos legittime procreatis seu procreandis; quibus forte deficientibus, haeredibus dicti Jacobi legitimis quibuscunque, de nobis et haeredibus nostris, in feodo et haereditate in perpetuum. *Reddendo* inde nobis annuatim *dicti Jacobus et Johanna*, et eorum diutius vivens, haeredesque ut praefertur, unum denarium argenti, nomine *Albaefirmae*, si petatur tantum, pro omni alio servitio, exactione saeculari seu demanda, quae per nos vel haeredes nostros de dicta Castriwarda aliququaliter exigi poterunt seu requiri. In cujus rei testimonium, praesenti Cartae nostrae Sigillum nostrum praecipimus apponi. Testibus, venerand. in Christo patribus, Willielmo et Johanne, Cancellario nostro, S. Andreae et Dunkeld. Ecclesiarum Episcopis; *Johanne Primogenito nostro*, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Ja-

into one body, called *the Barony and Lordship of Torphiphen*, the 24th of January 1563, and the 22d year of her reign, for payment of 500 merks of feuduty yearly to her Mayesty, *per aequales portiones, ad duos anni terminos, Pentecostes et S. Martini in hyeme, nomine Feodifirmae annuatim; nec non summam decem millia scutorum aureorum solarium, vulgari appellatione, Crown of the Sun nuncupat.* The last sum was borrowed from Timothy Curneoli, an Italian gentleman of the preceptor's acquaintance at Genoa, and a banker of the house of Bonvizi, resident for the time in Scotland, and paid at divers terms, partly upon her Majesty's precepts to her servants, the French Paris, Sir Robert Melvin, Sir James Balfour, and Captain Anstruther; and partly to Mr. Robert Richardson, treasurer for the time, whereof there is a receipt under the privy seal. This Sir James had been usher to Queen Mary of Lorraine and her daughter, and employed by the latter in divers weighty affairs, and at two or three times chosen ambassador to divers sovereign princes. He died without issue, and his honours and fortune were devolved to James Sandylandis of Calder, his grand-nephew; of whom is lineally descended the Right Honourable James Sandylandis, present Lord Torphiphen, whose predecessors, preceptors thereof, were placed *inter proceres*, on the temporal side, in all parliaments since King James III., as the extract of the parliament rolls since that time, under the clerk register's hand, doth clearly justify.

cobo de Douglas, consanguineo nostro; comitibus; Archibaldo de Douglas et Roberto de Erskyne, militibus, consanguineis nostris. Apud Caldore, vicesimo-quarto die. Maii, Anno Regni nostri quinto-decimo.

[*The seal as before, white wax on a tague of parchment.*]

Having then shewed that the child procreate *extra justas nuptias* is unlawful, and that a bastard is not legitimate by a subsequent marriage, nor allowed to succeed, by the express and fundamental laws of our nation, whereof I have adduced a convincing proof, p. 7, and consequently cannot assume the vain, empty, and insignificant name of heir, since he is debarred, by our custom and constitutions, from the succession; it follows, that he cannot approve nor confirm the rights and privileges granted by the prince or his father; which formality being necessary for completing the legal being of a Charter, would be of no force if done by a child unlawfully begotten. Whereupon I have asserted, that John Earl of Carrick was lawful son to King Robert, since he is acknowledged at Scoon in a parliamentary meeting, anno 1371, *nemine contradicente*, and elsewhere, by many reiterated acts, for undoubted heir and successor. That he confirms, as eldest son, his brethren's infestments, and is conjunct disponent with his father to his deeds, and approves or attests all grants made to Queen Euphame, to her children, or her sons-in-law. In all which he is stiled *Magnificus Dominus. Frater noster. Vir Potens et Nobilis. and Primogenitus.*

In pursuance of my design, it will not be improper to observe, that the very notion we have of the last designation implies, in its formal conception, an essential and inhering right to the succession; so that whosoever is invested therewith, is understood to have, above all others

in the same line, and *a fortiori* in a remoter degree, an hereditary title to the vacant estate; which prerogative cannot be altered upon any pretence whatsoever, nor suspended by any act or disposition to the contrary, and consequently supposes him to be lawfully begotten. Hence James II. declares null all gifts made without a sufficient warrant, by John Swift, burgess of Edinburgh, in favours of his younger children, because they destroyed the rights which belonged inseparably to his eldest son and heir upon his estate; as is clear from the following Charter.

CARTA 108, JACOBI II. FOL. R. 60, LIB. 6.

JACOBUS, Dei Gratiâ, Rex Scotorum; Universis et singulis Ligiis et Subditis nostris, ad quorum notitias praesentes litterae pervenerint, Salutem. *Quia* intelleximus quod Johannes Swift, burgensis burgi nostri de Edinburgh, certas cartas et litteras talliae, de certis tementis et terris jacent. in burgo nostro de Edinburgh, sua propria autoritate, absque nostra confirmatione, consensu et licentia, certis prolibus ipsius quondam Johannis, fratribus et sororibus Thomae Swift, fecit, concessit et deliberavit, cum saisina inde facta; in nostri et successorum praejudicium, ac in *exhaeredationem* Thomae Swift, filii sui et haeredis, ipsiusque damnum non modicum et gravamen: *Vobis* igitur universis et singulis Ligiis et Subditis nostris quorum interest, declaramus per praesentes, dictas donationes, concessionem, infeodationes, tallias et saisinas, alias factas per praedictum Johannem Swift, suis prolibus praedictis, in dicti Thomae sui filii et haeredis exhaeredationem, invalidas esse, et nullius roboris aut momenti fore in futurum. Datum sub

Magno Sigillo nostro, apud Edinburgh, penultimo die mensis Februarii, Anno Domini, millesimo quadringentesimo, quinquagesimo-octavo, et Regni nostri, vicesimo-tertio.

William Earl of Orkney and Cathness having also infest Sir Oliver Saintclair of Roslin, his son of a second marriage, begotten on Marjory, daughter to Alexander Sutherland of Dumbeth, in all his baronies lying within the sherifffdoms of Edinburgh, Fife, and Stryvelyne, to the prejudice of William Saintclair of Newbrugh, his eldest son of the first marriage, begotten on Elizabeth, daughter to Archibald Earl of Douglas, Lord Galloway and Annandale, widow to John Earl of Buchan, Constable of France, who was son to Robert Duke of Albany, Governor of Scotland: It was sustained by Newbrugh, *post excessum patris*, that the disposition made by his deceased father was null, *Imo*, In respect he was the only child that had the undoubted title to those lands by the common law, as being heir to the deceased Earl, and so could not be prejudged by any private deed made in behalf of the younger children; since the collector of our *Regiam Majestatem*, lib. 2, cap. 27, art. 2, *de successione filii ad patrem*, expresses himself thus: *Si pater fuerit miles, tunc eo casu, ejus filius primogenitus succedit in totum; ita quod nullus fratrum suorum partem inde, de jure, petere potest.* 2do, That in the greatest rigour, and even stretching the law, his father was only allowed, by the 22d chap. art. 2, to give *filiis postnatis, id est, post primogenitum natis, partem rationabilem de haereditate sua, cum consensu haeredis*: Whereas he had granted to Sir Oliver the whole bulk of his estate, lying, as said is, in Fife, and towards the south of the Forth, without his consent; and that by that means he had deprived him of his right to the succession:

Which was his third exception. Which right could no more have been abstracted from the heir, than the roundness from a bowl or a sphere; according to the 20th chap. art. 1, *Non licet filium exhaeredare*. After some replies and duplies made by the advocates, the lands in debate were divided, by the agreement of both parties, under form of instrument; whereby Sir Oliver and his heirs resigned and gave over to William Lord Saintclair of Newbrugh, his elder brother, and his heirs, all and haill the lands of Cowsland, with their pertinents, lying within the sherifffdom of Edinburgh; and his lands of Dysart, within the barony of the samin; with the lands of Ravenscraig, and castle of the same; the lands of Dubbo, Carberry, and Wilstoun, lying in Fife; patronages of kirks and chaplainries, office of bailery, &c. : to remain heritably with the said William and his heirs perpetually. And, on the other hand, William of Newbrugh, designed *Primogenitus et Haeres Magnifici et Potentis Domini, Domini Willielmi Comititis Orcadiae et Cathaniae*; and his son Henry, likewise called *Primogenitus et Haeres apparens dicti Willielmi, Domini de Newbrugh*; renounce their interest to the baronies of Roslin, the castle of the same, and patronage of the college, or provostry, to the lands of Pentland, Pentlandmure, Morton and Mortonhall, and to the barony of Harbarshire. And both of them bind themselves to stand by one another, under the penalty of L.5000, whereof L.3000 were payable to the King, and L.2000 to the Archbishop of St. Andrews, *nomine poenae*, within forty days; as also, under the penalty of infamy and inhability, and of being mensworn men, they having sworn on the Holy Evangils the performance of the foresaid articles. And it is thereby declared, that Sir Oliver shall worship and honour the said William, as effeirs and accords him to do to his eldest

brother. And if there happen any plea or contestation betwixt the said William of Newbrugh, and William, his younger brother (of the second marriage), for the earldom of Cathness, the said Sir Oliver shall stand neuter betwixt them, as he should do betwixt his brethren, and take no part with either of them during the quarrel. The agreement is dated the 9th of February 1481. Witnesses, William Archbishop of St. Andrews; Andrew Stuart; Lord Avandale, Chancellor of Scotland; Colin Earl of Argyll; John Earl of Athole; William Bishop of Ross; Andrew Stuart, Provost of Lincludan; Mr. George Carmichael, treasurer of Glasgow; Alexander Lumisden, rector of Flisk; and Alexander Borthwick, clerk of St. Andrews. And sealed with the seals of the Archbishop of St. Andrew's, the Chancellor's, and Argyle's; and subscribed by the public notars. This agreement is ratified the 18th of February 1481. Whereupon Henry Lord Saintclair, son to William Lord Newbrugh, in the first Parliament of King James IV., begun at Edinburgh *Die Lunae, sexto die mensis Octobris*, and continued, is declared chief of the blood, Lord Saintclair, and heir to the Earl of Orkney and Lord Newbrugh, the 14th of January. The act is recorded in the Lower House, *folio verso* 113, in the following terms :

“ *Item*, Anent Sir Henry Saintclair, that our Souveraine Lorde, with advyce and delyverance of the estaitis of his Parliament, declares, that sene the said Sir Henry's grandschire and faider, Lords Saintclair, for the tyme are decessit, and the said Sir Henry richwise heretor to thaim; that he is chef of that blude; and will therefor that he be callit Lord Saintclair in tyme to cum, with all dignities, emenents, privilegis, tenands, tenandriis belong-

ing thairto, efter the forme of chartars and evidents made thairupon.

Whereby 'tis plain that the designation of *primogenitus*, which is only properly applied to the eldest child lawfully begotten, implies an undoubted right to the succession, so that none can succeed as long as he is alive ; but if he comes to fail, leaving no heirs *de corpore suo legitime procreatis*, then the succession falls of course to the elder brother remaining, *qui aequali intervallo a stipite, sive communi parente, distat ; deficientibus vero qui ex recta linea descendunt, ut supra, tunc haeredes collatorales veniunt ad haereditatem, habita tamen distinctione aliqua proximitatis ;* as we shall see afterwards.

Upon which account Sir James Douglas of Heriotmur was proclaimed Earl, after his brother had been stabbed with a dagger in Stryvelyne Castle, anno 1452, because he had been declared elder brother to Archibald 'Earl of Murray, his competitor, and consequently heir to Earl William, by the decret of the official of Lothian, to whom the debate was referred in 1447. The story, which is not noticed by Hume of Godscroft, is set down in the 4th book of our records, fol. r. 57, No. 95, as follows :

CARTA 95, JACOBI II. CONFIRMATIONIS JACOBI DE DOUGLAS, ET ARCHIBALDI COMITIS DE MORAVIA, SUPER CERTIS INDENTURIS ET DECRETIS INTER EOSDEM FACTIS ; PRAESENTE WILL. COM. DE DOUGLAS.*

JACOBUS, Dei Gratia, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, Clericis et Laicis, Salutem.

* William Earl of Douglas was son to James Earl thereof and Beatrix Saintclair, daughter to Henry Saintclair of Roslin, and Earl of Orkney. He was brother to James Douglas of Harriotmure, Archibald Earl of Murray, Hugh Earl of Ormond, and John Lord Balveny. He married with great pomp and solemnity Margaret, daughter to Archibald Earl of Douglas, by the approbation of the King and Parliament, not so much in respect of her beauty, as her fortunes, and had the lands not tailzied, in Galloway, Annandale, Balveny, and Ormond, falling from the heirs-male, to be her portion ; ratified to him in an Assembly of the Three Estates, convened at Edinburgh the 11th of February 1449. As is clear from a Charter of King James II., recorded in the registers, fol. ver. 62, No. 105, lib. 4. ; which begins the 20th of December, and ends the 27th of June, 1452.

Jacobus, Dei Gratiâ, Rex Scotorum ; Omnibus probis hominibus suis ad quos praesentes litterae pervenerint, Salutem. Sciatis quod concessimus, coram tribus Regni nostri statibus, in pleno parlamento nostro tento apud Edinburgh, Anno et mense subscriptis ; ac concedimus per praesentes, carissimo consanguineo nostro Willielmo Comiti de Douglas et Avandale, et suis assignatis, pro suo fideli servitio nobis impenso et impendendo, maritagium Margaretæ de Douglas, consanguineae nostrae, filiae quondam Archibaldi Comitis de Douglas ; cum universis et singulis terris, redditibus, firmis et possessionibus, quae ad maritagium ipsius, juste et secundum leges Regni debent pertinere. Quare universis et singulis quorum interest vel interesse poterit, stricte praecipiendo mandamus, quatenus dicto Willielmo et suis assignatis, in omnibus et singulis dictum maritagium tangentibus sint intendentes et respondentes, sub omni poena quae competere poterit in hac parte. Remisimus etiam, ac per praesentes remittimus, praefato Willielmo Comiti de Douglas, pro suis benemeritis, ac pro pluribus continuis servitiis nobis hactenus multipliciter impensis, omnes et singulas summas wardarum, releviorum, albarum firmarum, eschaetarum, curiarum, arreragiar. ac proventuum et commoditatum, ratione wardae vel relevii, quarumcunque terrarum pertinent. praefato Willielmo Comiti, nobis aut praedecessoribus nostris spectant. seu ad quas nos vel haeredes nostri habuimus, vel habere potuissemus, aut in futurum habere poterimus juris titulum, vel clameum aliquod, quacunque ratione, ante legitimum in-

Sciatis nos duas litteras ; unam vid. litteram indenturae, factam inter dilectos consanguineos nostros, Archibaldum Comitem Moraviae, ex parte una, et Jacobum de Douglas, fratrem germanum dicti Comitum, ex parte altera ; et aliam litteram, decreti et declarationis dilecti clerici nostri Magistri Nicholai de Otterburne, officialis curiae Sancti Andreae, infra partes laudoniae, nostri secretarii ; de mandato nostro visas, lectas, inspectas et diligenter examinatas, sanas, integras, non rasas, non cancellatas, nec in aliqua sui parte suspectas, ad plenum intellexisse : Quarum tenor indenturae sequitur in hunc modum :

“ Yis indenture, made at Edinbrugh ye 25th daye of August, ye yher of God 1447 yhers, betwix nobil and mytti men Archbald of Douglas Erle of Murraue, on ye ta parte, and James of Douglas of Heriotmure, broyr german, on ye toyr parte, befoir a ryt worschipful and mytti ladye, the Countase of Douglas and of Avandale ; and alsa in the presince of a hee and a mytti lorde, William Erle of Douglas and of Avandale, Lorde of Galway, &c. And of yar consent and ordainance, it is accorditt betwix ye said partiis, in fourme and manir after fallowand : Yat is to say, yat ye forsaid Archbald and Jamys ar oblist, and be yir indenturs oblis yaim, the haily evangil twichit leleli and treuli, but fraude or gyle,

troitum dicti carissimi consanguinei nostri Willielmi Comitum de Douglas, in terris sibi pertinent. usque in diem confectionis praesentium litterarum ; quas summas, de ipso aut patre suo, vel praedecessoribus suis potuissimus clamasse quacunque ratione. De quibus quidem summis praemissis, fatemur nos esse solutos et contentos, praefatumque carissimum consanguineum nostrum, suos haeredes, executores et assignatos, de summis, proventibus, redditibus et commoditatibus praefatis, pro nobis, haeredibus et successoribus nostris, quietos clamamus in perpetuum. Datum sub magno Sigillo nostro, apud Edinbrugh, undecimo die mensis Februarii, Anno Domini 1449, et Regni nostri decimo-tertio.

He was a professed enemy to the Crichtons and Livingstons, who were then rulers ; by whose contrivances he perished in 1452.

cavillation, exception, contradiction or dissate ; yat yai sal stande and abyde at ye ordainance, delyverance, determination and decrete of ye said lorde, Erle of Douglas, of his moder, and yair consule ; quhilk of yam, be ye said lorde and his consule forsaide, is declaritt first borne, yat ye toyer of yam, in tyme cumin, sal evermare, for him, his ayrs and his successours, hald firme and staible ye said determination, delyverance, ordainance and decrete ; and never, in na tyme revok, againsay or withstande ye said delyverance, in privie or in aperte, in ye lawe or be ye lawe, na clame to the heritage, na in na pairt of it in ye contrair of ye said decrete and declaration of ye said lorde, Erle of Douglas, and of his consule : Renunciand in yis pairt eyer of ye said pairts, all privilegis of lawe, lettres, bulles of ye Pape or cardinals, and statuts of ye kynryk, ye quhilks myt profit til ony of ye said pairts, or be schaitful or hyndering to ye toyer of yaim, or yair airs, or engendre prejudyce. And attour it is accordit, yat ye said partiis are submittit, and submits to ye said lorde and his consule, in ye distribution of any lands, possessions, or gudes, movabil or unmovabil quhatsoever it be pleasand to him for to gif or distribut, gif it sal happyn ye said lorde erle to decesse withoutyn ayrs of his body lauchfullie to be gottin, or any yrar yat emplese, or may emplese to him ; and nevir in tyme to cum, be yam na be yair airs, na nane uyirs in yair naim, in jugement, na utouth, privaly or in apert, for to withstand or againsay ye forsaide ordainance, delyverance, distribution or gyft ; bot firmlye to byde yairat, but fraude or gyle, or ony exception. And attour, ayer of ye said partiis is oblist to the said lorde, yat yai sal mak and seale al and sindrie evidents and obligations til uyeris yat sal be sene spedeful to ye said lorde and his consule, and his said derest moder, quhat tyme yat be yaim ony of ye said

partiis be requirit yairto. Ye quhilk conditions and poynts, all and sindir befoir written, leleli and treuli to kepe, but fraude and gyle, as said is, ye haly evangel twicht, baith ye said partiis, in presence of al and sinder ye persons underwrytin, has given bodaly aith. In witenising of ye quhilk thing, the sele of ye said Archibald and Jamys interchangiblie ar put to yir indenturs, togidder with ye sele of ye said hee and mytti Ladie, and of ye said Lorde Erle of Douglas, of Alexander Erle of Crawford, Alexander Lorde Montgumerie, Laurence Lorde Abernethie in Rothemey, John Lorde Lyndesay of ye Byers, Mastir Jamys Lyndesay, person of Douglas, Robert Flemyng, Lorde of Cumbernauld, Thomas of Cranston of yat ilk, Sir John Wallace of Cragie, Sir Jamys Achinleck of yat ilk, knichts; John of St. Michael, and Jamys of Parkle, of ye said partiis, in wytnising of ye foresaid thyngs, instantly procurit, ye yere, daye, moneth and place befoir wryttin. Ye comon sele of Edinbrugh, and the official sele of Lothian, as said is, procurit, heirto are put."

Alterius vero litterae decreti, praefati magistri Nicholai de Otterburne, tenor sequitur, sub hac forma. Universis sanctae matris ecclesiae filiis, ad quorum notitias praesentes litterae pervenerint, Nicholaus de Otterburne, magister in artibus, licentiatus in decretis, Canonicus Ecclesiae Glasguen. ac Officialis curiae Sancti Andreae, infra partes Laudoniae, salutem in omnium Salvatore. Noverit universitas vestra, quod nobilium virorum, Jacobi de Douglas et Archibaldi de Douglas, Comitis de Moravia, fra-*

* This Earl Archibald followed his brother the Earl of Douglas in all his incursions: At last, in an inroad made upon the West Marches, he was slain at Arkinholme, where the Earl of Ormond was taken prisoner; Douglas, with the Lord Balveny, escaping, with great difficulty, into a forest. Part of Murray's and Ormond's lands were given by King James II. to the Scot and Batison, who were present at the skirmish; as we are informed by the following charters:—

trum germanorum et gemellorum, inter quondam bonae memoriae Jacobum, olim Comitem de Douglas, et domi-

Jacobus, Dei Gratiâ, Rex Scotorum; Omnibus—Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto nostro Waltero Scot de Kirkurde militi, pro suo fideli servitio nobis impenso et impendendo, et pro eo quod interfuit in conflictu de Arkinholme, in occisione et captione nostrorum rebellium, quondam Archibaldi et Hugonis de Douglas, olim Comitum Moraviae et Ormondiae, et aliorum rebellium nostrorum in eorum comitiva existentium, ibidem captorum et interfectorum; totas et integras terras de Albintoune, Phareholme, et Glengonaryg, cum pertinentiis, jacent. in Baronia de Crawford-John, infra vicecomitatum nostrum de Lanark. *Tenend. et Habend.* totas et integras praedictas terras, cum pertinentiis, praedicto Waltero, haeredibus suis et assignatis, de nobis, haeredibus et successoribus nostris, in feodo et haereditate in perpetuum; per omnes rectas metas suas antiquas et divisas, prout jacent in longitudine et latitudine; in boscis, planis, moris, maresiis, viis, aquis—et cum curiis et earum exitibus, herizeldis, bludewittis et merchetis mulierum; ac cum omnibus aliis et singulis libertatibus—ad praedictas terras, cum pertinent. spectant. seu juste spectare valentibus quomodolibet in futurum; libere, quiete, plenarie, integre, honorifice, bene et in pace, sine aliquo retinemento, seu obstaculo quocunque. *Faciendo* inde annuatim dictus Walterus, haeredes sui et assignati, nobis, haeredibus et successoribus nostris, servitia de dictis terris debita et consueta. In cujus rei testimonium, praesenti Cartae nostrae, magnum Sigillum nostrum apponi praecepimus. Testibus, Reverend. in Christo Patribus, Georgio Episcopo Brechinensi, Cancellario nostro; Thoma Episcopo Candidae Casae, nostri secreti Sigilli Custode; dilectis consanguineis nostris, Jacobo domino Levingston, magno Camerario nostro; Thoma domino Erskyne, Patricio domino Grahame, Andrea domino de Gray, Willielmo de Moravia de Tullibardine; magistris Johanne Arrous, Archidiacono Glasguensi, nostro Secretario, et Niniano Spot, nostrorum computorum Rotulatore. Apud Edinburgh, vicesimo-secundo die mensis Februarii, Anno Domini 1458, et Regni nostri, vicesimo-tertio.

CARTA 16, JACOBI II. FOL. V. 21, JOHANNI BATISON.

Jacobus, Dei Gratiâ—Omnibus—Sciatis nos dedisse—dilecto et fideli nostro Johanni Batison, pro singulari favore quem gerimus erga eundem Johannem, pro eo quod interfuit in conflictu de Arkinholme, in occisione et captione nostrorum rebellium, quondam Archibaldi et Hugonis de Douglas, Comitum Moraviae et de Ormonde, et aliorum rebellium nostrorum in eorum comitiva existentium, ibidem captorum et interfectorum; duas marcatas, cum dimidia marcata terrae, terrarum de Dalbech, cum pertinentiis, jacent. in baronia de Wester-Ker, infra vicecomitatum de Roxbrugh. *Tenend et Habend.* dictas duas marcatas, cum dimidia mar-

nam Beatricem, ejus sponsam genitorum, de ortu priori nonnullis dubitantibus; ac propterea comparentibus coram nobis pro tribunali sedent. magnifico et potenti domino, domino Willielmo Comite de Douglas, nomine et ex parte Jacobi de Douglas antedicti, fratris sui, cum cautione praestita de rato habendo; et ex parte adversa, recepta et admissa ex una parte, et nobili viro Archibaldo de Douglas, Comite de Moravia antedicto, ex altera parte: desiderantibus et petentibus declarationem in praemissiis, nostra autoritate judiciaria interveniente, eis fieri in casu cujuscunque haereditatis, cuicunque eorum gemellorum in futurum contingent. Unde nos, hujusmodi petitionibus annuentes, certas probas mulieres, una

cata terrae, dictarum terrarum de Dalbech, cum pertinentiis, praedicto Johanni et haeredibus, de nobis, haeredibus et successoribus nostris, in feodo et haereditate in perpetuum; per omnes rectas metas suas antiquas et divisas, prout jacent in longitudine et latitudine—cum omnibus et singulis libertat. commoditat. et aysiamentis, ac justis pertinentiis suis quibuscunque, tam non nominatis quam nominatis, ad dictas duas marcatas, cum dimidia marcata terrae, cum pertinentiis, spectantibus, seu quovismodo juste spectare valentibus in futurum; libere, quiete, plenarie, integre, honorifice, bene et in pace, sine aliquo retinemento seu obstaculo quocunque. *Faciendo* inde annuatim dictus Johannes et haeredes sui, nobis, haeredibus et successoribus nostris, servitia de dictis duabus marcatis, cum dimidia marcata terrae, cum pertinentiis, debita et consueta. In cujus rei testimonium, praesenti Cartae nostrae magnum Sigillum nostrum apponi praecepimus. Testibus, Reverendis in Christo Patribus, Georgio Episcopo Brechin. Cancellario nostro; Thoma Episcopo Candidae Casae, nostri secreti Sigilli Custode; dilectis consanguineis nostris, Patricio domino de Grahame, Patricio domino Glamys, Andrea domino de Gray, Patricio domino Hales, Willielmo de Moravia de Tullibardine; magistris Johanne Arrous, Archidiacono Glasg. Secretario nostro, et Niniano de Spot, Canonico Dunkeld. nostrorum computorum Rotalatore. Apud Perth, vicesimo die mensis Octobris, Anno Domini 1458, et Regni nostri vicesimo-secundo.

The said King James grants “Nicholao Batison, pro eo quod interfuit in conflictu de Arkinholme, in occisione et captione Comitum Moraviae et de Ormonde, duas marcatas, cum dimidia marcata terrae, terrarum de Dalbech, cum pertinentiis, jacent. in Baronia de Wester-Ker, infra vicecomitatum de Roxburgh. *Tenendas* before. Reddendo inde servitia debita et consueta. The witnesses, date, place, and tenor, as before in *Carta fratris sui*.

cum matre eorum fratrum, coram nobis, magno iuramento interveniente, juratas, diligenter examinavimus quae in hujusmodi ortu dictorum gemellorum interfuerunt. Per quarum depositiones comperimus, et per praesentes pronunciamus, decernimus et declaramus, dictum Jacobum de Douglas seniore praefato Archibaldo fratri suo gemello esse et fuisse, et hoc omnibus quorum interest notum facimus per praesentes. In quorum omnium et singulorum fidem et testimonium praemissorum, sigillum officii nostri officialatus Laodoniae, praesentibus est appensum, una cum subscriptionibus notariorum subscriptorum, in eodem nostro decreto, et testium examinatione nobiscum assistentium. Apud Edinbrugh. die mensis Augusti 26, Anno Domini 1447, indictione decima, Pontificatus SS. in Christo Patris, domini nostri Nicholai, divina providentia Papae, V. anno primo. Coram hiis testibus, viz. dominis Alexandro de Crawfurde, Alexandro domino Montgumery, Johanne domino Lyndesay de Byres, Johanne Wallace domino de Craigie, Jacobo de Achinleck, de eodem, Militibus; magistro Jacobo Lyndesay de Colventoun, Rectore de Douglas, Thoma de Cranston, de eodem, Johanne de Sancto Michaeli de Quicister, Thoma de Cranston, Willielmo de Cranston, Willielmo de Liberton, Thoma de Berwic, Willielmo Cameron, Alexandro Naper, Lanceloto Abernethy et Johanne de Lancaston; cum multis aliis testibus, ad praemissa vocatis specialiter et rogatis.

Et ego Willielmus Arous, Presbyter S. Andreae diocesis, publicus auctoritate Imperiali Notarius, superscripti decreti dationi, et praem. citationi, testium examinationi, dictarum partium requisitioni, ac earum de rato habendo obligationi; caeterisque omnibus et

singulis supradictis, dum sic, ut praemittitur, agerentur et fierent, una cum praenominatis testibus, ac dominis notariis subscriptis, praesens personaliter interfui; eaque omnia et singula sic fieri vidi, scivi et audivi, et in notam sumpsit. Ideoque hic me ad petitionem dicti domini Comitum, et de mandato dicti domini Judicis, una cum Notariis subscriptis, subscripsi, et in notam recepi, ac in hanc praesentem formam redegi; signumque meum solitum et consuetum, una cum appensione sigilli officii officialatus Laodoniae Judicis antedicti, apposui, rogatus et requisitus, in fidem et testimonium omnium et singulorum praemissorum approband. Cum aliis, istud verbum [*Vicesimum-sextum*] inter quartam et quintam lineas, computando a fine.

Et ego Robertus Michael de Hirdmanston, Clericus S. Andreae, diocesis, publicus auctoritate Imperiali Notarius, praemissis omnibus et singulis, dum sic, ut praemittitur, agerentur, dicerentur et fierent, una cum praenominatis testibus, et domino Notario suprascripto, praesens fui; eaque omnia et singula sic fieri vidi, scivi et audivi, et in notam recepi: Ideoque hic me subscripsi, signumque meum solitum et consuetum apposui, rogatus et requisitus, in fidem et testimonium veritatis omnium praemissorum.

Et ego David Rede, S. Andreae diocesis, publicus auctoritate Imperiali Notarius, praemissis omnibus et singulis, dum sic, ut praemittitur, agerentur, dicerentur et fierent, una cum dominis Notariis suprascriptis, et testibus praenominatis, praesens personaliter interfui; eaque omnia et singula sic fieri vidi scivi et audivi, ac in notam sumpsit: Ideoque sic me sub-

scribens, signo meo solito et consueto, signavi, rogatus et requisitus, in fidem et testimonium veritatis omnium et singulorum praemissorum.

Quas quidem litteras indenturae et decreti, ac omnia et singula in eis contenta, in omnibus punctis suis et articulis, conditionibus et modis, ac circumstantiis suis quibuscunque, forma pariter et effectum, in omnibus et per omnia approbamus, ratificamus, ac pro nobis et successoribus nostris, ut praedictum est, in perpetuo confirmamus; salvo nobis jure nostro, ante praesentem confirmationem nobis debito et consueto. In cujus rei testimonium, praesenti Cartae nostrae confirmationis, magnum Sigillum nostrum apponi praecepimus. Testibus Reveren. in Christo Patre, Willielmo Episcopo Glasguen. Willielmo domino Creichton, nostro Cancellario et consanguineo praedilecto; carissimis consanguineis nostris, Willielmo et Georgio de Douglas et de Angus, Comitibus; venerabili in Christo patre, Andrea Abbate de Melross, nostro Thesaurario et Confessore; dilectis consanguineis nostris. Willielmo domino Somerville, Andrea domino de Gray, Magistro Nicholao de Otterburne, nostro Secretario, et Johanne Arrois, Archidiacono Glasguen. Apud Linlithgow, nono die mensis Januarii, Anno Domini 1449, et Regni nostri decimo-tertio.

The very same reason likewise induced Edward I. to prefer John Balliol to Robert the Bruce, and the other pretenders to the Crown, because he was descended of the eldest daughter, and consequently of the sole heir to David Earl of Huntington; *quia Nepos ex Filio natus, representat personam sui Patris, et succedit Avo suo, eodem modo quo Pater si vixisset: et fictione quadam juris, Patris sui vita de-*

functi praesentiam exhibet, ac si esset adhuc vivus ; quia de jure, Nepotes, subducto filio, rediguntur ad conditionem filii.

The history of this famous debate, which set England on fire, and had almost destroyed Scotland, hath not been faithfully related by our writers : Wherefore, I shall here give an account thereof, in few words, and as far as concerns my design.

The direct royal line of Scotland failing in Margaret, maiden of Norway, two powerful competitors claimed, at home, the crown, viz. John Balliol, Lord Harcour and Galloway, as grandchild to Margaret, eldest daughter to the Earl of Huntington, brother to Malcolm and William, Kings of Scotland ; and Robert, surnamed the Elder, son to Robert the Noble, Lord Cleveland and Annandale, as son to Isabel, second daughter to the said Earl. The Balliol's right flowed from an elder daughter, yet he was in a third degree from the deceased Earl ; to whose line they were forced to run back : Whereas the Bruce, son to the second daughter, was in the second degree to Earl David ; and so pretended to succeed, preferably to Dornergilla, who was in the same degree, as male, who excludes, in feudal succession, the female ; *quia generaliter verum est, quod mulier nanquam cum masculo partem capit in haereditate aliqua, Reg. Mag. cap. 30, art. 2 ;* and to John Balliol her son, because he was a degree nearer to Earl David. Which agreeth with the 33d chap. of the said laws *de filio postnato, et nepote ex primogenito filio, art. 2, 3, et 4.*

The questions moved by the Bruce, were already answered by the 5th art. of our said laws, chap. 33, *Aliis vero visum est contrarium, viz. talem nepotem, de jure, patruo esse praeferendum.* And art. 6, *cum enim nepos ille ex filio primogenito exierit, et de corpore suo extiterit,*

haeres in totum jus quod pater suus haberet, si adhuc viveret, ipse nepos debet succedere patri suo. The reason expressed by the law is, *Nam si quis moritur, relicto post se filio, et nepotibus ex altero filio primogenito, vel prius genito, prae-mortuo ; nepotes succedunt avo in stirpes, jure repraesentationis.*

Nevertheless, the right of the succession was made doubtful, and the kingdom was drawn into two equal factions ; so that the controversy, which could not have been settled in Scotland without involving the nation into a most pernicious civil war, was referred to Edward Langshanks, King of England. Whereupon he held an assembly at Norham, *Dunelm. diocesis, in confiniis Scotiae, Anno 1291, Indictione 4ta, mensis Maii, die decimo.* Here he shewed, *per diversas chronicas, in diversis utriusque Regni Monasteriis compertas*, that he was superior, and *directus Dominus Regni Scotiae.* His pretensions, grounded upon the fabulous Brutus, were allowed at Upsetlington, belonging to the Bissets, *S. Andreae diocesis*, the 22d day of June, by the Bruce and his adherents, whilst Balliol was absent. *Praesentibus venerab. in Christo patribus, dominis Antonio Dunelm. Willielmo Elliensi, Willielmo S. Andreae, Roberto Glasgw et Marco Soderensi, Episcopis : Ac nobilibus viris, Willielmo de Valencia de Pembroke, Henrico de Lacy Lincoln, Donaldो de Mar, Gilberto de Angus, Roberto de Brois de Carrick, comitibus—Ac nobilibus viris, Waltero de Bello Campo, Willielmo de Sancto Claro, Patricio de Grahame, Willielmo de Moravia, Militibus.* The Balliol, who arrived the day following, acknowledged also the King's authority over Scotland, first at Upsetlington in the Merse, then at Norham on Tweedside, in England. All having unanimously submitted their claims to King Edward, as Sovereign, and direct lord superior of Scotland, and promised, in the most full and ample

terms imaginable, to adhere to his definitive sentence. The Tuesday following the Ascension 1291, a nomination was ordered to be made of forty barons by the Balliol, and of as many by the Bruce. To which number King Edward added twenty-four, for hearing all debates. The jury being thus constituted, the court was adjourned to the 6th of June, and appointed to meet at Berwick the 2d day of August following. In the mean time, our castles were delivered up to the English, Alan Bishop of Cathness was named Chancellor, and our countrymen swore fealty to the King of England.

Upon Thursday the 2d day of August 1291, a Parliament of both nations met at Berwick, as it was appointed, in the church of the Blackfriars; there Florence, Earl of Holland, Patrick Dumbar, Earl of March, William de Vescy, William de Ross, Robert de Pinkny, Nicolaus de Soules, Patrick Galightly, Roger de Munde ville, John Cumin, Lord Badenoch, and John de Hastings, Lord Bargaveny, dropt their respective claims and titles. After which John Balliol Lord Galloway, made his address to the king and lords, as follows.

BALLIOL'S CLAIM.

CORAM Domino Rege Angliae, capitali domino Scotiae, et coram auditoribus electis; petit Johannes de Balliolo, jus suum de Regno Scotiae, de saisina antecessoris sui, David nomine, qui fuit Rex et regnavit. Unde de eodem David descendit jus, et descendere debuit, cuidam Henrico, ut filio et haeredi. De eodem Henrico descendit jus Malcolmo, ut filio et haeredi, et regnavit, et obiit sine haerede de corpore suo. Unde, de Malcolmo, descendit jus, et debuit descendere, Willielmo, ut fratri et haeredi.

De Willielmo, qui regnavit, descendit jus, et debuit descendere, Alexandro, ut filio et haeredi. Alexander regnavit, et descendit jus, et descendere debuit, Alexandro, ut filio et haeredi, qui ultimo obiit Rex. De Alexandro descendit jus, et debuit descendere, Alexandro, ut filio et haeredi. Alexander obiit sine haerede de corpore suo, et descendit jus, et debuit descendere, David, ut fratri et haeredi. David obiit sine haerede de corpore suo, et descendit jus, et debuit descendere, Margaretae, ut sorori et haeredi. De Margareta descendit jus, et debuit descendere, Margaretae, ut filiae et haeredi, filiae Regis Norwagiae. De illa Margareta, quia obiit sine haerede de se, resortiebatur jus, et debuit resortiri, Margaretae Marjoriae et Isabellae, ut consanguineis et uni haeredi, si Regnum esset partibile, sororibus Alexandri, proavi Margaretae filiae Regis Norwagiae: et quia Regnum non est partibile, remansit jus, et debuit remanere de integro, Marjoriae, ut sorori antenatae praedictae Margaretae, et haeredi. De illa Marjoria descendit jus, et debuit descendere, quia obiit sine haerede de corpore suo, cuidam Isabellae, ut sorori et haeredi. De Isabella resortiebatur jus, et debuit resortiri, cuidam David, ut avunculo et haeredi, fratri Regis Willielmi, patri ejusdem Isabellae. De David descendit jus, et debuit descendere, Henrico, ut filio et haeredi. Henricus obiit sine haerede de corpore suo. Unde de eodem Henrico, descendit jus, et debuit descendere, cuidam David, ut fratri et haeredi. David obiit sine haerede de corpore suo. Unde de ipso David descendit jus, et debuit descendere, cuidam Johanni, ut fratri et haeredi. Johannes obiit sine haerede de corpore suo. Unde de eodem Johanne descendit jus, et debuit descendere, Margaretae, Isabellae, Mathildae et Adae, ut sororibus et uni haeredi, si Regnum esset partibile: et quia Regnum non est partibile, descendit jus de integro Margaretae,

sorori antenatae dicti Johannis, ut sorori et haeredi. De Margareta descendit jus, et debuit descendere, cuidam Thomae, ut filio et haeredi Thomas obiit sine haerede de corpore suo. Unde de ipso Thoma descendit jus, et debuit descendere, Christianae et Dervolguldae, ut sororibus et uni haeredi, si Regnum esset partibile: et quia Regnum non est partibile, descendit jus de integro Christianae praedictae, ut sorori antenatae Thomae, et haeredi. Eadem Christiana obiit sine haerede de corpore suo. Unde de eadem Christiana descendit jus, et debuit descendere, Dervolguldae, ut sorori et haeredi. De Dervolgulda descendit jus, et debuit descendere, Hugoni, ut filio et haeredi. Hugo obiit sine haerede de corpore suo, et descendit jus, et debuit descendere, Alano, ut fratri et haeredi. Alanus obiit sine haerede de corpore suo. De quo descendit jus, et descendere debuit, Alexandro, ut fratri et haeredi. Alexander obiit sine haerede de corpore suo. Unde de ipso descendit jus, et descendere debuit, *Johanni de Balliolo*, ut fratri et haeredi: Qui modo petit jus suum, ut illi qui exiit de sorore primogenita, de Regno impartibili. Et supplicat domino Regi et suo concilio, et aliis electis, quod velint jus suum decidere secundum leges et consuetudines Scotiae, et sibi justitiam exhibere: Salvo sibi jure addendi et diminuendi, secundum leges et consuetudines Scotiae.

Balliol having thus ended, and the Bruce allowed audience, he spoke to this purpose.

BRUCE'S CLAIM.

CORAM Vobis Domino Edwardo, Dei Gratia, Rege Angliae Illustri, et Superiori Domino Regni Scotiae;

Monstrat *Robertus de Bruys*, Dominus Vallis Annandiae, quod ipse est rector et propinquior haeres Regni Scotiae, cum pertinentiis : Quia Rex Willielmus, Rex Scotiae, antecessor suus, frater Comitis David de Huntington, fuit saisitus de ipso Regno in dominico suo, ut de feodo et jure, cum pertinentiis, tempore pacis, tempore Henrici Regis Angliae, qui vocabatur *filius imperatricis* ; et temporibus Regum Richardi et Johannis, filiorum suorum. Et idem Willielmus regnavit Rex in Scotia, tempore suo, et pacifice obiit Rex saisitus. De eodem Willielmo descendit Regnum Scotiae Alexandro filio suo, ut filio et haeredi ; qui regnavit, et obiit Rex saisitus. De eodem Alexandro descendit Regnum Alexandro filio suo, ut filio et haeredi ; qui regnavit, et obiit Rex saisitus. Ille idem Alexander habuit duos filios, Alexandrum primo-genitum, et David secundo-genitum, et unam filiam, quae vocabatur Margareta, quae fuit Regina Norwagiae : qui filii obierunt, vivente patre, et nullum statum exspectaverunt regnandi in Regnum Scotiae. Illa Margareta habuit unam filiam de Rege Norwagiae, nomine Margaretam : cui praedictus Alexander Rex Scotiae, avus suus, in vita sua, post mortem liberorum suorum, fecit probos homines terrae suae jurare, et affirmare per scriptum, ad tenendum eam pro Domina Regni Scotiae, si decederet sine haerede de corpore suo. Quae quidem Margareta obiit sine possessione corporali Regni Scotiae exspectanda, et sine haerede de corpore suo. Post quam Margaretam nihil remansit de exitu praedicti Regis Willielmi, in linea descendente ; per quod Regnum Scotiae, cum pertinentiis, debuisset, per legem et justitiam, resortitum fuisse Comiti de Huntington, postnato fratri praedicti Regis Willielmi, si statum regnandi in Regnum Scotiae exspectasset. Qui quidem David habuit tres filios, Henricum, David, et Johannem qui fuit Comes Cestriae, qui

omnes obierunt sine haeredibus de corporibus suis, et sine statu regnandi in Regno Scotiae exspectando. Ille idem David habuit etiam quatuor filias, Mathildam, quae obiit sine haerede de corpore suo; Margaretam, Isabelam et Adam: De Isabella exivit Robertus de Bruys qui modo est, qui petit Regnum Scotiae. Propter quod idem Robertus dicit, Quod Regnum Scotiae debet resortiri ad eum, sine medio, per legem et justitiam, ut propinquiore in gradu de sanguine Regis Alexandri, qui ultimo obiit, et Margaretae filiae Regis Norwagiae supradictae, in linea collateralis, ut de sanguine Regali Scotiae legitimo. Quod quidem Regnum Scotiae, cum pertinentiis, dictus Robertus de Bruys clamat tenere, libere, in libertate Regni, de Vobis Domino Edwardo Rege Angliae, et de Corona Angliae, haereditarie, in perpetuum. Et monstrat vobis, quod Rex Alexander, filius Regis Willielmi praedicti, desperans de haerede de corpore suo, tenuit dictum Robertum rectum haeredem suum, si ipse decederet sine alio haerede de suo corpore habendo: Et pro tali definivit, ex assensu proborum hominum de Regno suo; et pro tali ipsum pronunciavit coram eis, de quibus plures adhuc sunt superstites qui de hoc testimonium poterunt perhibere. Et Rex etiam Alexander qui ultimo obiit, tenuit ipsum pro tali, et id pluribus specialibus suis dedit intelligi, si exitus de ipso deficeret. Et propterea, omnes probi homines de Scotia sunt iurati propinquiore de sanguine Regis Alexandri qui ultimo obiit, qui de jure haereditare debebit, si dicta Margareta, filia Regis Norwagiae, sine haerede de corpore suo obiret. Unde supplicat dominatione vestrae, quod secundum formam petitionis suae, sibi velitis plenam justitiam exhibere, sicut ad vestram pertinet dignitatem: Salvo sibi jure in omnibus, addendi, mutandi et diminuendi, secundum quod attendet suo profectui convenire.

The 15th of October 1292, the estates being assembled again at Berwick, and the King set in his throne of majesty, he asked the two pretenders if they had any thing more to propose for supporting their rights? The Bruce instantly enlarging his former discourse, said :—

BRUCE'S ANSWER.

QUOD quaestio super jure regnandi habet judicari et terminari per jus naturale, per quod Reges regnant, et non per leges et consuetudines inter subditos usitatas : per quod quidem jus naturale, proximior in sanguine, linea collateralis, melius jus habet regnandi. *Dicebat etiam*, Quod lex et consuetudo quae sunt inter tenentes et subditos, superiorem ligare non possunt, praecipue Regem suum. Unde (*dixit*) quod licet in haereditatibus partibilibus, secundum leges et consuetudines inter subditos observatas, primogenita aliquam habeat praerogativam ; in Regno tamen impartibili, ubi proximorum in sanguine Regali legitimus, tempore vocationis Regni inventus, secundum jus naturale, est praeferendus, primogenita nullam habet, nec habere debet, praerogativam. *Dixit etiam*, Quod consuetudo succedendi in Regnum Scotiae plene facit pro eo ; quia usitatum est in Scotia, quod frater Regis praecedentis, praeferendus est ejus filio in successione Regni Scotiae, ratione proximitatis in gradu. Et ad hoc quaedam antiqua produxit exempla, *viz.* Quod quidam Dovenaldus, frater Kineth Mac-Alpin, regnavit immediate post fratrem suum, excluso Constantino, primogenito praedicti Kineth ; et hoc, ratione propinquitatis sanguinis ipsius Alpini. Et post praedictum Dovenaldum, regnavit Constantinus, primogenitus ipsius Kineth Mac-Alpin. Et post eum regnavit Eth, frater

ejus senior, excluso Dovenaldo, filio praedicti Constantini. De quibus Constantino et Eth, fratribus et filiis praedicti Kineth Mac-Alpin, descenderunt omnes Reges qui postea regnaverunt in Scotia usque modo. Et semper sicut erant propinquiore in gradu, regnabant, quilibet post alium, usque ad tempus Regis Malcolmi, viri Sanctae Margaretae Reginae. Et adhuc, post praedictum Malcolmum, quidam frater ejus regnavit, excluso filio dicti Malcolmi. *Et adduxit ultra, similiter idem Dominus Robertus*, quaedam alia exempla, de consimilibus successionibus in quibusdam aliis terris et regionibus: utpote de Comitatu Sabaudiae, et Regno Hispaniae. *Dixit etiam*, Quod mulier regnare non debet, quia officium regiminis exercere non potest: Et tempore quo praedictum Regnum vacavit, post mortem Regis Alexandri, ultimi Regis Scotiae, fuit Dervolgulda, mater praedicti Johannis de Balliolo superstes; quae, ratione praedicta, regnare non potuit, nec debuit. Et sic jus ipsius Regni praedicti, Roberto, tanquam Masculo, et in aequali gradu cum praedicta Dervolgulda, existenti, sine medio debet resortire, propter insufficientiam dictae Dervolguldae, quia mulier. *Unde* petit idem Robertus, quod habito respectu ad leges Regales, per quas Reges regnant, et regnare debent, et etiam ad exempla per ipsum producta, quod dictus Dominus Rex jus suum velit declarare, et sibi justitiam exhibere.

To all which Balliol, who was certainly a man of bright parts, of a great penetration, and of a sound judgment, replied, with a wonderful eloquence, above all commendation.

BALLIOL'S REPLY.

QUOD dictum Regnum Scotiae non potest, nec debet, eidem Roberto de Bruys quovismodo, de jure, adjudicari; pro eo quod—Idem Robertus, in Petitione sua praedicta, omissionem fecit in ea parte suae Petitionis, ubi dicit, *Quod jus Regni praedicti debuisset resortiri David, fratri Regis Willielmi, per mortem praedictae Margaritae de Norwagia*; nullam faciendo mentionem de Margareta, Marjoria et Isabella, filiabus praedicti Regis Willielmi, fratris praedicti David: Desicut nullum jus potuit nec debuit resortiri ad praedictum David, fratrem praedicti Regis Willielmi, nisi per medium praedictarum filiarum ipsius Regis Willielmi. Et quo ad hoc quod idem Robertus dicit, *Quod jus praedicti Regni debuit ad ipsum resortiri, sine medio*: Idem Johannes dicit prius, quod nullum jus potest descendere vel resortiri alicui, nisi per medium rectae lineae descendens vel ascendens, secundum leges et consuetudines utriusque Regni. Per quod dicit, quod amisso aliquo vel aliquibus de recta linea, ascendente vel descendente, aliquod jus ad eum non potuit resortiri. Et quo ad hoc quod idem Robertus dicit, *Quod est proximior in gradu*, in eo quod dicit, *Quod praedictus David habuit tres filias, Margaretam, Isabellam, et Adam*; de qua Margareta exivit Dervolgulda, et de ipsa, Johannes qui nunc est: et de praedicta Isabella, Robertus qui nunc petit; et sic proximior in gradu. Per quod dicit *se habere melius jus ad regnum praedictum, secundum consuetudinem quorundam Regnorum*. Dicit idem Johannes, Quod quidquid dicat de aliis Regnis et Regionibus, vel de eorum consuetudinibus; in Regnis tamen Angliae et Scotiae, in quibus Reges regnant per successionem in recta linea, et Comites et Barones eodem modo succedunt in haereditatibus suis, exitus postnatae,

licet in gradu proximiori, non excludit exitum primogenitae, licet remotiorem in gradu in ipsa recta linea, successione durante. Dicit etiam, Quod ex quo praedictus Robertus concedit, quod Margareta, antecessor praedicti Johannis, fuit primogenita dicti David, et praedicta Isabella, mater praedicti Roberti, postnata; et quod praedictum Regnum non est partibile, per quod dicit, quod jus ipsius Regni, et ipsum Regnum, unicae personae debeat remanere: Videtur ei, quod in hujus modi successione, secundum leges et consuetudines utriusque Regni, antenata praeferenda est postnatae: et eadem ratione, exitus antenatae praeferendus est exitui postnatae, tam ratione primogeniturae quam impartibilitatis Regni praedicti. Unde per rationes praedictas, durante exitu primogenitae, nihil juris exitui postnatae accrescere potest. Et quo ad hoc quod praedictus Robertus dicit, *Quod Alexander Rex Scotiae, filius Regis Willielmi, tenuit eum pro propinquiore haerede suo, si sine haerede de se contingeret ipsum mori, et pro tali eum, coram Baronibus suis, recognovit*: Idem Johannes dicit, Quod quoad petendum Regnum praedictum, hujusmodi recognitio sibi valere non debet, etiam etsi facta fuisset: et quod idem Robertus, in Petitione sua, recognoscit, quod praedictus Alexander obiit Rex saisitus de Regno praedicto in dominico suo, ut de feodo et de jure: et quod de praedicto Alexandro, descendit jus praedicti Regni cuidam Alexandro, ut filio et haeredi, qui similiter obiit inde saisitus. Unde per recognitionem suam praedictam satis ostendit, quod ille Alexander sine haerede de se non decessit, et quod jus praedicti Regni ad filium suum, ut ad haeredem, per mortem ipsius fuit transmissum. Et sic per recognitionem praedicti Alexandri, si quae facta fuit, nihil juris fuit sibi acquisitum. Item, Quo ad hoc quod idem Robertus dicit, *Quod quaestio super jure regnandi habet terminari et*

judicari per Jus Naturale, per quod Reges regnant, et non per leges et consuetudines inter subditos usitatas: Idem Johannes dicit, Quod per easdem leges et consuetudines, debet Dominus Rex Angliae, Superior Dominus Regni Scotiae, cognoscere et judicare de dicto Regno Scotiae inter petentes, per quas idem Rex Angliae, de terris et tenementis ad Coronam suam spectantibus, per antecessores suos, infra Regnum suum occupatis, cognoscit et judicat, et antecessores sui cognoscere et judicare solebant; et hoc est, per communem legem et consuetudinem Regni sui, et non per aliquas alias leges et consuetudines qualescunque. Et quo ad hoc quod idem Robertus dicit, Quod lex et consuetudo quae sunt inter tenentes et subditos, Superiorem ligare non possunt, et praecipue Regem suum: Idem Johannes dicit, Quod praedictus Robertus non est in eo casu, in quo judicari debet per subjectum, sed per Superiorem, scilicet per Dominum suum Regem Angliae, Superiorem Dominum dicti Regni Scotiae; de cujus progenitoribus, a tempore cujus non extat memoria, dictum Regnum Scotiae per hommagium tenebatur, et de ipso teneri debet: Et ipsi petentes sint in ipsius curia Regis et Domini sui, ad recipiendum jus ab eo, sicut subditi de tenementis quae ab ipso tenentur. Unde dicit, Quod ex quo sunt subjecti dicto Domino suo Regi Angliae, et Coronae suae, quolibet jure requiritur, ut ipsi, tanquam subditi et petentes, jus ad Regnum, quod de eo tenetur, per leges et consuetudines Regni sui debeant judicari. Et dicit, Quod per easdem leges et consuetudines, primogenita habet praerogativam in succedendo, tam in haereditatibus impartibilibus quam partibilibus. Item, Quo ad hoc quod praedictus Robertus dicit, Quod consuetudo succedendi in dicto Regno Scotiae plene facit pro eo, in hoc quod dicit, Quod frater Regis cujusdam praecedentis, praefertur illius filio in successione Regni, ratione proximitatis in gradu: et ad

hoc, *quod quaedam produxit exempla* : Idem Johannes dicit, Quod per hoc, quod praedictus Robertus intendit ostendere per exempla praedicta, quod frater postnatus regnavit post fratrem antenatum, ipsius filium repellendo, et hoc, ratione proximitatis, in gradu succedendi praefertur proximiori ; quia filius proximior est patri in gradu hujusmodi succedendi, quam frater patris, secundum leges et consuetudines utriusque Regni. Et quoad exemplum quod idem Robertus dicit, *Quod frater Malcolmi, quondam Regis Scotiae, regnavit immediate post ipsum Malcolmum, ejus filium repellendo* : Idem Johannes recognoscit, quod frater praedicti Malcolmi, per aliquod tempus modo praedicto regnavit ; sed dicit, quod filius Malcolmi sic expulsus, adivit dominum suum Willielmum Regem Angliae, et Superiorem Dominum Regni Scotiae, conquaerendo de injuria per fratrem patris sui sibi facta. Ad cujus quaelam, Dominus Rex Angliae, fratrem praedicti Malcolmi a praedicto Regno ejecit, et filium ejusdem Malcolmi, Regem ejusdem Regni Scotiae constituit, qui post modum toto tempore suo regnavit. Dicit etiam idem Johannes, Quod post mortem ejusdem Regis filii Malcolmi, idem frater Malcolmi, iterato, se in dictum Regnum intrusit, et regnare caepit : Per quod, ad quaerimoniam cujusdam Edgari, 2, filii ejusdem Malcolmi, praedictus Rex Willielmus, Superior Dominus dicti Regni Scotiae, praedictum fratrem Malcolmi sic regnantem injuste, de eodem Regno Scotiae rato ejecit, et praedictum Edgarum Regem ipsius Regni constituit. Post quem omnes alii Reges Scotiae, usque nunc, per rectam lineam successionis, secundum leges et consuetudines in utroque Regno usitatas, regnaverunt. Et quo ad exempla de Hispania et Comitatu Sabaudiae, dicit, Quod illa exempla praedicto Roberto non debent valere ; pro eo quod aliae sunt et diversae leges et consuetudines in Hispania et Sabaudia, quam in

Regnis Angliae et Scotiae : nec Rex debet, inter subditos suos, per alias leges et consuetudines judicare, quam per leges et consuetudines Regnorum quibus praeest. Et quo ad hoc quod praedictus Robertus dicit, *Quod mulier regnare non debet, quia officium regiminis exercere non potest* : Idem Johannes dicit, Quod si mulier regnare non debet, nec jus regnandi ad ipsam descendere seu resortiri, idem Robertus nihil juris vendicare potest in Regno praedicto; eo quod, si aliquod jus de ipso regno ad ipsum resortiri deberet, hoc esse non potest nisi per medium Isabellae matris suae : Unde dicit, Quod si nullum jus regnandi ad dictam Isabellam matrem suam resortiri potuit, nec ad ipsum Robertum, nisi per eandem Isabellam, tanquam ad filiam, descendere quoquomodo. Dicit etiam, Quod idem Robertus, in hujusmodi dicto suo, est sibi ipsi contrarius. Et quia satis notorium est, quod tam ipse Robertus, quam omnes alii Comites, Barones, Proceres et Magnates Regni Scotiae, juraverunt fidelitatem Margaretae filiae Regis Norwagiae, quae ultimo obiit Domina et Regina dicti Regni Scotiae, et ipsam pro Regina et Domina tenuerunt. Et sic erat idem Robertus modo negando verbo, quod prius facto concesserat, quod quidem factum dediscere non potest. Unde—cum liqueat evidenter quod praedictus Johannes sit haeres—Margaretae primogenitae praedicti David, per rectam lineam succedendo, descendens; et concessum sit per eundem Robertum, quod praedictum Regnum est impartibile; per quod necessario requiritur, quod hujusmodi haereditas impartibilis tantummodo uni sorori et haeredi, et exitui ipsius, debeat remanere, secundum leges et consuetudines utriusque Regni: Et si uni tantum, semper praeferenda est primogenita, et ipsius exitus, in omni hujusmodi haereditate impartibili, tam ratione primogeniturae, quam impartibilitatis haereditatis

Regni petiti. Per quas etiam leges et consuetudines, nullus gradus proximitatis sanguinis in secunda linea, excludit remotiorem exeuntem de primogenita in prima linea, recte descendente: *Petit* ipse Johannes, Petitionem praefati Roberti, quoad jus succedendi in praedictum Regnum Scotiae, repelli penitus et cassari; et secundum Petitionem suam, justitiam sibi fieri, ac jus suum, prout in Petitione sua continetur, in omnibus et singulis judicialiter declarari, ac idem Regnum Scotiae sibi per Vos adjudicari.

After this, King Edward asked of the Lords of the Council, Peers, Prelates, and Auditors, *Quis istorum duorum, Roberti et Johannis, sit alteri praeferendus, in jure succedendi in dictum Regnum Scotiae, secundum praemissa hinc inde proposita et ostensa? Et an remotior in uno gradu, in successione exiens de primogenita, debeat, secundum leges et consuetudines utriusque Regni, excludere proximior in gradu exeuntem de secundo-genita? Vel proximior in gradu, exiens de secundo-genita, debeat, secundum leges et consuetudines ipsorum Regnorum, excludere remotiorem in uno gradu, exeuntem de primogenita?* All unanimously and together answered, *nullo reclamante vel contradicente, Quod remotior in uno gradu, linealiter descendens de primogenita, secundum leges et consuetudines utriusque Regni, praeferendus est proximiori in gradu, exeunti de secundo-genita, in qualibet haereditaria successione. Quocirca praefatus Dominus Rex, dicta responsione intellecta, sexto die mensis Novembris, die Jovis viz. proximo post Festum Omnium Sanctorum; quia apparebat evidenter, dictum Robertum de Bruys jus in Petitione sua non habere, secundum formam ejusdem et naturam; de consilio Praelatorum et Nobilium utriusque Regni, Auditorum praedictorum, et aliorum de Concilio suo, ibidem praesentium—Judicialiter—Pronunciavit, Quod praedictus Robertus, per Petitionem suam praedictam, nihil capiat de Regno Scotiae memorato.*

Then he desired John Balliol and the other pretenders to continue their Claims. At length, the 17th of November, 1292, the Peers and Auditors of both nations comparing again in the Castle of Berwick upon Tweed, *S. Andreae Diocesis*; with all those that bore any authority in State or Court, sentence was given in favours of *John Balliol, die Lunae, post Festum S. Martini*. The reasons mentioned in the Record are: *Quia compertum fuit manifeste, et per omnes utriusque Regni Nobiles, Praelatos, Auditores et Sapientes, consideratum et concordatum, quod praedictum Regnum Scotiae est impartibile, et uni debeat haeredi remanere. Et—quod ab omnibus utriusque Regni Nobilibus et Praelatis est approbatum, concordatum et dictum—et judicialiter declaratum, Quod remotior in gradu descendente, in prima linea, proximiori in secunda linea, in successione haereditatis impartibilis, est praeferendus. Et etiam, Quod ordo successionis contentus in Petitione dicti Johannis de Balliolo, qui est haeres in prima linea descendente, non est ab aliquo Petentium praedictorum, in aliqua sui parte dedicatus: Idcirco, prae omnibus aliis, in successione haereditaria dicti Regni Scotiae, est praeferendus, tanquam haeres rectior Regni memorati. Prynne, P. 527.*

Whereupon he was crowned at Scoon, with loud acclamations and applauses of the Commons, the 29th of November the said year, by Anthony Beck, Bishop of Durham, and placed in his Royal Seat by John of St. John; Duncan Earl of Fife, to whom that charge by custom of the kingdom did appertain, being at under-age, and unable to perform those services.

From all what is said, I shall draw the following conclusions: *Imo*, That the bastard hath no right to any succession, since Patrick Earl of March, William de Vescy, Robert de Pinkny, and the other competitors who derived their title from natural children to our kings, were scarcely

noticed. *2do*, That the child of the second or third daughter, who are called *Postnatae*, was not allowed to debate with the child or lineal heir of the first daughter, designed *Antenata* : For which reason, Robert the Bruce and John of Hastings, the first descended of Isabel, and the last of Ada, lawful, yet younger daughters to David Earl of Huntingdon, were excluded from the Crown. *3tio*, That the sole heir, according to our laws, is the eldest lawful son ; or he failing, the eldest lawful child lineally descended of him, who succeeds *jure repraesentationis*, and so is nearer to the estate, though not nearer to the deceased possessor thereof. And consequently, that John Earl of Carrick, being universally acknowledged for righteous and undoubted heir to King Robert, behoved to be lawfully born ; which he himself openly proclaims to the world by the designation of *Primogenitus*, the eldest Son ; which designation implies, as I have said, in its formal conception, not only an undoubted right to the whole succession, but also a clear and distinct notion of a lawful birth ; as the reader may easily perceive in perusing the following sheets.

CONFIRMATIO FUNDATIONIS CAPELLAE B. MARIAE DE MAY-
BOYLLE. EX AUTOGRAPHO. IT IS THE 280TH CHARTER
OF KING DAVID'S BOOK, FOL. R. 56, AND THE FIRST
CHARTER OF THE SECOND ROLL OF OUR REGISTERS.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus totius terrae suae, Clericis et Laicis, Salu-
tem. Sciatis nos quasdam litteras Johannis Kennedy de
Donnonure, super fundatione et dotatione cujusdam ca-
pellae et trium capellaniarum, juxta coemiterium ecclesiae
parochialis de Mayboylle, in Comitatu de Carryk, con-
fectas ; de mandato nostro visas, lectas et diligenter in-

spectas ; non raras, non abollitas, nec in aliquo vitiatas, intellexisse ad plenum, in haec verba : “ Universis ad quos praesentes litterae pervenerint, Johannes Kennedy, Dominus de Donnonure, Parochiae de Mayboylle, diocesis Glasgensis, Salutem in omnium Salvatore. Quia inter alia, per quae fideles Christiani firmam tenent fiduciam remunerationis aeternae, prosunt veraciter, ex maxime orationum sustragia et opera charitatis ; quorum utrumque quis exequitur et complet efficaciter, si ad Divini cultus augmentum, locum sacrum honorificum, de bonis sibi a Deo collatis, zelo fidei construit, et ipsum habunde dotat redditibus pro servitio ministrorum. Hinc ergo universitati vestrae notum facio, Quod ego Johannes Kennedy praedictus, de auctoritate venerab. in Christo patris, ac D. D. Walteri, De Gratiâ, Episcopi Glasguen., fundavi et incepti quandam Capellam, in honore et sub nomine B. Mariae Virg. juxta coemiterium ecclesiae parochialis de Mayboylle, in Comitatu de Carryk. Verum, quia secundum canones, qui aedificare vult, ante preficiat quae ad luminaria, quae ad custodiam, et quae ad stipendia ministrorum sufficiant ; idcirco ego Johannes supradictus, pro me et haeredibus meis, dono et concedo Deo, B. Mariae Virgini, omnibus Sanctis, ac perpetuo, tribus Capellanis ibidem Divina celebraturis, pro salubri statu mei, Mariae uxoris meae, et liberorum meorum, quamdiu egerimus in humanis ; et pro animabus nostris, cum ab hac luce migraverimus, nec non pro animabus omnium antecessorum et successorum nostrorum, et omnium fidelium defunctorum, decem et octo marcas terrae de terris meis, vicinis, contiguis sive annexis Ecclesiae de Mayboylle et Capellae praedictis, una cum octodecim bollis farinae de sicca multura, de dicta terra mea percipi consueta ; ac decem marcas Sterlingorum, annuatim percipiendas de terra de Balmaclewhane, ad duos anni terminos consuetos ; et quin

que marcatas terrae de Barrecloych, et sex marcatas terrae de Treuchane, et quinque marcatas terrae de Barrelach; ad sustentationem ipsius Ecclesiae sive Capellae, unius Clerici et trium Capellanorum, ut praefertur; in liberam, puram et perpetuam eleemosynam, et in dotem praefatae Capellae; sine aliquo retinemento superioritatis secularis, exactionis vel demandae. Et si dictas terras, annuos redditus, vel eorum partem aliquam, a dicta Capella evinci contigerit, obligo me, haeredes meos et assignatos, et omnia bona mea mobilia et immobilia, et specialiter terras meas de Donnonure, Tonergeth, et de Kylynekelly, ad dotandam dictam Capellam, quatenus ab ea evictum fuerit et obtentum. Volo etiam, quod cujuslibet dictarum Capellaniarum in perpetuum, cum vacaverit, praesentatio ad me et haeredes meos spectet, infra quatuor menses a tempore vacationis, Episcopo Glasguensi, et sede vacante, ejusdem Capitulo facienda: Ex tunc enim ad eos devolvetur libera provisio, illa vice tantum; salvo mihi et haeredibus meis in perpetuum jure, aliis in posterum vicibus praesentandi. Dictas etiam terras et redditus, si quae onera ordinaria vel extraordinaria, aut consueta servitia ipsis emineant, ab iis quibus debentur liberabo; alioquin aliae terrae meae de hujusmodi oneribus plenarie respondebunt. Blada vero dictorum Capellanorum molentur in molendino meo de Ronnifrac, post me ipsum et haeredes meos, et de multura ad vas vicesimum-quartum. Insuper, pro me et haeredibus meis promitto, Quod cartas confirmationum hujus meae donationis, Dominorum meorum superiorum, videlicet, illustris viri Domini Comitis de Carrick, et excellentissimi principis, Domini mei Regis Scotiae, ad finem quod jure alicujus eorum, praesens mea fundatio in toto vel in parte retractari non possit, meis sumptibus procurabo. Si vero contingat, quod absit, me vel aliquem haeredum meorum, contra praesentem funda-

tionem ipsarum Capellaniarum, aliquo unquam tempore, in aliquo venire; obligo me et haeredes meos, in viginti libris Sterlingorum, fabricae Ecclesiae Glasguensis, et in viginti libris Sterlingorum, ad amplicationem et sustentationem dictae Capellae applicandas, nomine poenae, et in dampnis, quae dictos Capellanos qui pro tempore fuerint, sustinere contigerit, juxta arbitrium superioris eorundem persolvend. totiens quotiens contrariatum fuerit; fundatione Capellae, ejus dotatione, libertatibus, et poenae continuatione, nihilominus in suo robore duraturis: subji- ciens me et haeredes meos, in praemissis omnibus et quo- libet praemissorum, jurisdictioni Episcopi Glasguensis, ut ego et haeredes mei, simpliciter, de plano, sine strepitu et figura judicii, valeamus ad praemissa omnia et eorum quodlibet, per censuram ecclesiasticam coherceri. Pro- testor insuper, cum recolendae memoriae venerabilis pater Willielmus Episcopus Glasguensis ultimo defunctus, auc- toritate Litterarum Apostolicarum, mihi ex causa in- junxisset fundare unam Cappellaniam perpetuo duratu- ram, quod una istarum Capellaniarum per me fundatarum, sic cedat ad exonerationem meam, quod ad aliam funda- tionem eo praetextu non tenear in futurum. In cujus rei testimonium, Sigillum meum, unâ cum Sigillo Domini Gilberti Kenedy, militis, filii mei et haeredis; ac etiam cum Sigillo venerabilis in Christo patris, et D. D. Wal- teri, Dei Gratiâ, Episcopi Glasguensis; unâ cum Sigillo communi Capituli ejusdem, ad majorem securitatem, prae- senti litterae, et uni alteri ejusdem tenoris, est appensum: Quarum litterarum una, apud Glasguense Capitulum per- petuo remanente, alia vero, penes Capellanos dictae Ca- pellae, per eos in loco quem elegerint, custodiend. Simi- liter, duarum confirmationum Domini Comitis de Carrick, et duarum Domini nostri Regis, ejusdem tenoris, quas impetrabo, una Comitis, et alia Regis, penes Glasguense

Capitulum; aliae vero duae, penes Capellanos, ut praeferatur, perpetuo remanebunt. Datum apud Donnonure praedictum, penultimo die mensis Novembris, Anno Domini, millesimo tricentesimo septuagesimo-primo." Quas quidem foundationem et dotationem ejusdem Capellae, et terrarum et reddituum praedictorum, in liberam, puram et perpetuam eleemosynam, et in dotem ipsius Capellae, sic factas, juxta formam et effectum earundem litterarum, in omnibus et per omnia, pro nobis et haeredibus nostris, ratificamus, approbamus, et tenore praesentis Cartae nostrae in perpetuum confirmamus. In cujus rei testimonium, praesenti Cartae confirmationis nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerabili in Christo patre, Willielmo Episcopo Sancti Andreae; Johanne primogenito nostro, Comite de Carrick et Senescallo Scotiae, Roberto Comite de Meneteth, Willielmo Comite de Douglas, Johanne de Carrick, Cancellario nostro, Willielmo de Keth, Marescallo nostro; Jacobo de Lyndesay, Roberto de Erskyne et Hugone de Eglinton, militibus. Apud Dundonevald, quarto die mensis Decembris, Anno Regni nostri primo.

(The broad seal appended, as before.)

CARTA JOHANNIS COMITIS DE CARRICK. EX AUTOGRAPHO.

UNIVERSIS ad quorum notitiam praesentes litterae pervenerint, Johannes Primogenitus Roberti, Dei Gratiâ, Regis Scotorum illustris, Comes de Carrick et Senescallus Scotiae, Salutem. Cum dilectus consanguineus noster Johannes Kenedy de Dunnonure, quandam Capellam in honorem B. Mariae Virginis, juxta Coemiterium ecclesiae parochialis de Mayboylle, in Comitatu nostro de Carrick, construxerit, ad sustentationem trium Capel-

lanorum et unius clerici, ibidem perpetuo divina celebratur. necessariam, quam redditibus et possessionibus subscriptis dotavit, videlicet, de decem et octo marcatis terrae, contiguae et vicinae, sive annexae dictae Ecclesiae de Mayboylle et Capellae praedictae, unâ cum octodecim bollis farinae de sicca multura, de dicta terra percipi consueta, ac decem marcis Sterlingor. annuatim percipiend. de terra de Balmaclewhane, ad duos anni terminos consuetos, et quinque marcas terrae de Barrecloych, et sex marcas terrae de Treuchane, et quinque marcas terrae de Barrelach, in liberam, puram et perpetuam eleemosynam. Noveritis nos dictas concessionem et donationem, sive indotationem praedictis Capellae et Capellanis, ac clerico concessas, ratificasse, approbasse, et pro nobis et haeredibus nostris in perpetuum confirmasse, in omnibus et per omnia, forma pariter et effectum, adeo libere et quiete, integre et honorifice, prout in Cartis sive Litteris dicti Johannis, inde factis et concessis, plenius continetur. In cujus rei testimonium, Sigillum nostrum praesentibus fecimus apponi. Apud Dundonald, in Festo B. Johannis Evangelistae, Anno Domini, millesimo tricentesimo septuagesimo-primo. Hiis testibus, nobilibus viris, dominis Willielmo de Conyngham, domino de Kilmauris; Hugone de Eglintone, domino de Ardrossane; Johanne de Lyndesay, domino de Thuriston; Johanne Walays, domino de Ricardtoun; Duncano Walays, militibus; Andrea de Conyngham, Andrea More, Johanne Tayt, et multis aliis.

CARTA ROBERTI II. 299 OF KING DAVID'S BOOK, FOL. V. 59
 ET 61 DE CONTROVERSIA INTER BURGENSES DE AIRE ET
 DE IRWYNE.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
 bis hominibus totius terrae suae, Clericis et Laicis, Salu-
 tem. Quia per inquisitionem, de mandato nostro factam
 per Balivum de Conyngham, super controversia sive
 quaestione, mota et pendente inter burgenses nostros de
 Aire, ex parte una, et burgenses de Irwyne, ex parte
 altera; super finibus, limitibus et libertatibus, dictorum
 burgorum et burgensium de Aire et de Irwyne, et con-
 sequenter ad nos retornatam; fuit clare compertum, quod
 dicti burgenses de Irwyne fuerunt et sunt, a triginta,
 quadraginta, quinquaginta et sexaginta annis, et ultra et
 citra, et a tempore et per tempus, de cujus contrario me-
 moria hominum non existit, in possessione finium, limi-
 tum et bondar. totius baroniae de Conynghame, et baro-
 niae de Largis, dicti burgi de Irwyne libertatibus annexa-
 rum, pro suis mercandisis tantum, et mercimoniis in iisdem
 libere exercendis; prout haec et alia, per cartas inclitae
 memoriae praedecessorum nostrorum Regum Scotiae os-
 tensas, in inquisitione praedicta, clare patuit, ut est dic-
 tum. Noveritis nos concessisse, et hac praesenti Carta
 nostra confirmasse eidem burgo de Irwyne, et burgensi-
 bus ejusdem, pro nobis et haeredibus nostris, ut ipsi dun-
 taxat, utendo suis mercandisis et mercimoniis perpetuo,
 pro se et suis haeredibus libere gaudeant bondis, limi-
 tibus et finibus supradictis: firmiter inhibentes, ne quis
 eos, contra praefatam nostram concessionem, vexare, gra-
 vare, seu inquietare praesumat, in praejudicium dictarum
 suarum libertatum, super nostram plenariam forisfactu-
 ram. Concessimus etiam eidem burgo de Irwyne, et

burgensibus ejusdem qui pro tempore fuerint, et eorum haeredibus et successoribus, pro nobis, haeredibus et successoribus nostris in perpetuum, quod ipsi, haeredes et successores sui, dictum burgum teneant et possideant in liberum burgum, cum omnibus libertatibus et privilegiis; adeo libere, plenarie et honorifice, sicut aliquis burgus infra Regnum nostrum, ex infeodatione quorumcunque Regum Scotiae praedecessorum nostrorum, liberius teneatur, seu honorificentius possidetur; absque exactione cujuscunque tollonei, seu alterius cujuslibet servitutis, jam impositae, seu in posterum imponendae. Volumus etiam, et concedimus eidem burgo de Irwyne, et burgensibus ejusdem, ac eorum haeredibus et successoribus, pro nobis, haeredibus et successoribus nostris, libertatem Gyldae, prout alii burgi et burgenses Regni nostri, ipsam libertatem habent, et habere consueverunt: quodque fratres Gyldae in burgo de Irwyne praedicto constituere valeant qui gaudebunt, et gaudere debebunt omni libertate Gyldae, qua alii quicunque Regni nostri burgenses hactenus sunt gavisii. In cujus rei testimonium, praesenti Cartae nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechinen. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick et Senescalco Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas, consanguineo nostro; Johanne de Carrick, Canonico Glasguen. Cancellario nostro; Hugone de Eglinton et Roberto de Erskyne, militibus, consanguineis nostris. Apud Edinburgh. octavo die mensis Aprilis, Anno Regni nostri secundo.

CARTA ROBERTI II. JOHANNI DE FOULARTOUN. EX AUTO-
GRAPHO. IT IS THE 298TH CHARTER OF KING DAVID'S
BOOK, FOL. V. 59.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus totius terrae suae, Clericis et Laicis, Salu-
tem. Sciatis nos concessisse, et hac praesenti Carta nos-
tra confirmasse illas donationem et concessionem, quas
Primogenitus noster carissimus Johannes Comes de Car-
rick, Senescallus Scotiae, fecit et concessit Johanni de
Foulartoun, filio et haeredi Adae de Foulartoun militis,
de terris de Lathis, orientali et occidentali, et de terris
de Harparlande, cum pertinentiis, in baronia de Kyle-
Senescalli, infra Vicecomitatum de Are. *Tenend. et Ha-
bend.* dicto Johanni et haeredibus suis, de praefato Jo-
hanne Primogenito nostro, in feodo et haereditate, per
omnes rectas metas et divisas suas—adeo libere, quiete,
plenarie et honorifice—cum omnibus libertat. commod.
aysiament. et justis pertinentiis, ad dictas terras spectan-
tibus, seu juste spectare valentibus in futurum ; sicut
cartae sive litterae dicti Johannis Primogeniti nostri, prae-
fato Johanni de Foulartoun, exinde confectae, in se juste
continent et testantur ; salvo servitio nostro. In cujus
rei testimonium, praesenti Cartae nostrae, Sigillum nos-
trum praecepimus apponi. Testibus, venerab. in Christo
patribus, Willielmo, Waltero et Patricio, S. Andreae,
Glasguen. et Brechinen. Ecclesiarum Episcopis ; Johanne
Primogenito nostro, Comite de Carrick et Senescallo
Scotiae ; Roberto Comite de Fife et de Meneteth, Alex-
andro Senescalli, filiis nostris carissimis ; Thoma de Mar,
Willielmo de Douglas, Comitibus, consanguineis nostris ;
Johanne de Carrick, Canonico Glasguen. Cancellario
nostro ; Alexandro de Lyndesay, Roberto de Erskyne et

Hugone de Eglinton, militibus, consanguineis nostris. Apud Sconam, quinto die mensis Martii, Anno Regni nostri secundo.

CONFIRMATIO CARTAE ROBERTI DE ERSKINE, PATRICIO FLEMYNG, PER ROBERTUM II. CARTA 61, ROT. 1, ROBERTI II. WHICH IS THE SECOND IN THE RECORDS. JOHN EARL OF CARRICK, WITNESS.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, Clericis et Laicis, Salu-
tem. Sciatis nos cartam Roberti de Erskyne militis,
consanguinei nostri dilecti, de mandato nostro visam, lec-
tam examinatam et diligenter inspectam, non vitiatam,
non cancellatam, non rasam, non abolitam, nec in aliqua
sui parte suspectam, sed omni prorsus vitio et suspicione
carentem, intellexisse, de verbo in verbum, sub hac
forma: “Omnibus hanc cartam visuris vel audituris;
Robertus de Erskyne, dominus ejusdem, Salutem in Do-
mino sempiternam. Noveritis quod ego dedi, concessi,
ac dono et concedo, et hac praesenti Carta mea confirmo
Patricio Flemyng, filio Malcolmi Flemyng Domino de
Bigger, secundo-genito, omnes terras meas infra baro-
niam de Leygneh, videlicet terram de Bord, terram de
Tweonres, terram de Croy occidentali et de Croy orien-
tali, terram de Smacheston, terram de Bawoch, et terram
de Ardre, cum pertinentiis; in escambium terrarum de
Dalnotri et de Garscaddene, quae fuerunt dicti Patricii
Flemyng, in Comitatu de Levenox, infra vicecomitatum
de Dumbarton. *Tenend. et Habend.* eidem Patricio et
haeredibus suis, de Domino Barone de Leygneh qui pro
tempore fuerit, in feodo et haereditate, per omnes rectas
metas et divisas suas; adeo libere, quiete, plenarie, inte-

gre et honorifice; cum omnibus libertat. commod. aysia-
mentis et justis pertinentiis, ad dictas terras spectantibus,
seu spectare valentibus in futurum; sicut ego Robertus
praedictus easdem terras, cum pertinentiis, liberius tenui
seu possedi, aut Carta Thomae Flemynge, Domini baro-
niae ejusdem, mihi inde confecta, in se proportat liberius
et testatur. *Faciendo* inde Domino Baroni de Leygneh
qui pro tempore fuerit, tantum, servitium debitum et in
ipsa Carta contentum. Et ego praedictus Robertus et
haeredes mei, praedictas terras de Bord, de Tweonres,
de Croy occidentali et orientali, de Smecheston, de Baw-
och, de Ardre, cum pertinentiis, praedicto Patricio et
haeredibus suis, contra omnes homines et faeminas war-
rantizabimus, adquietabimus, et in perpetuum defende-
mus. Et si contingat quod haeredes antiq. baroniae de
Leygneh, per tractatum pacis reformandae inter Reges
Angliae et Scotiae, praedictam baroniam de Leygneh,
tanquam haereditatem suam recuperaverint et fuerint asse-
cuti, sic quod praedictus Patricius praenominatas terras,
cum pertinentiis, amittat; ex tunc ipse Patricius et hae-
redes sui, ad dictas terras de Dalnotri et Garscaddene,
cambitas ut supra, liberum habebit et habebunt regres-
sum, absque quovis clameo mei vel haeredum meorum,
vel quocunque brevi placitabili. Quin immo ego Robertus
de Erskynne et haeredes mei praedicti, ipsas terras de
Dalnotri et de Garscaddene, cum pertinentiis, praefato
Patricio et haeredibus suis, liberas et vacuas, et a nemine
nostrum occupatas, dimittemus, sibi et suis perpetuo pos-
sidendas, adeo libere, sicut praefatus Patricius easdem
terras, cum pertinentiis, ante excambium praedictum
meum factum, tenuit et possedit. In cujus rei testimo-
nium, praesenti Cartae meae Sigillum meum apposui.
Datum apud Edinburgh. decimo-octavo die Aprilis, Anno
Domini 1369. Hiis testibus, nobili et potenti D. D.

Roberto Senescallo Scotiae, Com. de Strathern; Johanne Senescallo de Kyle, Com. de Carrick; Patricio de Grahame, filio et haerede domini David de Grahame, Domini de Dundaf; Willielmo de Galbrach, Murdaco de Levenox et aliis." Quam quidem Cartam, in omnibus punctis, articulis, conditionibus et circumstantiis suis quibuscunque, forma pariter et effectum, ratificamus, approbamus, et pro nobis et haeredibus nostris in perpetuum confirmamus; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae confirmationis nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerabilibus in Christo patribus, Willielmo et Patricio, Sancti Andreae et Brechinen. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick et Senescallo Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas, Johanne de Carrick, Cancellario nostro, Jacobo de Lyndesay, nepote nostro, et Hugone de Eglinton, militibus. Apud Strivelyne, vicesimo-quarto die mensis Augusti, Anno Regni nostri tertio.

CARTA 62, ROTUL. I, ROBERTI II. CONFIRMATORIA LITTERAE THOMAE FLEMYNG ROBERTO BOYD.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus pro-
bis hominibus totius terrae suae, clericis et laicis, Salu-
tem. Sciatis nos Litteras Thomae Flemyng, dudum
Comitis de Wigton, factas Willielmo Boyd, filio quon-
dam Thomae Boyd de Kylmarnock, militis, de mandato
nostro visas, lectas, examinatas et diligenter inspectas,
non vitiatas, non cancellatas, non rasas, non abollitas, nec
in aliqua sui parte suspectas, sed omni prorsus vitio et
suspicionem carentes, intellexisse de verbo ad verbum, sub

hac forma : “ Omnibus hanc Cartam visuris vel audituris, Thomae Flemyng, Comes de Wigton et Dominus de Fowlwood, Salutem in Domino. Sciatis me teneri, et per praesentes firmiter obligari dilecto consanguineo meo Willielmo Boyd, filio quondam nobilis et potentis domini Thomae Boyd, militis, Domini de Kylmarnock, haeredibus suis et assignatis, pro suo servitio mihi pro tempore vitae suae impenso vel impendendo, in duodecim marcis Sterlingorum, bonorum et legalium, annuatim solvend. eidem Willielmo Boyd, haeredibus suis et suis assignat. per me haeredes meos, apud Fowlwood, ad duos anni terminos, per aequales portiones ; medietatem videlicet, ad Festum S. Martini in hyeme proxim. post confectionem praesentium, et aliam medietatem ad Festum Pentecostes proxime inde sequens ; et sic de anno in annum, et de termino in terminum, quousque ego vel haeredes mei, dictum Willielmum Boyd et haeredes suos vel assignatos, infeodavero vel infeodaverint haereditarie, de duodecim marcatis terrae, cum pertinentiis, in loco competenti et per modum competentem, infra aliquem vicorum subscriptorum, videlicet de Dumbartoun vel de Lanark, per Cartam meam vel haeredum meorum de warrantizantia. Et si contingat me vel haeredes meos, in solutione dictarum duodecim marcarum, vel in aliqua parte solutionis, ad dictos locum et terminos, dicto Willielmo Boyd, haeredibus suis et assignatis, ut praemittitur, faciend. deficere, quod absit ; obligo totam terram meam de Salmane, jacentem infra baroniam de Renfrew, in vicecomitatu de Lanark, in possessione mea tempore confectionis praesentium existent. cum pertinent. in manibus dicti Willielmi Boyd, haeredum suorum vel assignat. sine aliqua contradictione mei vel haeredum meorum, remansur. quousque ego vel haeredes mei, dictum Willielmum Boyd, haeredes suos vel assignatos, de duodecim marcatis terrae, cum

pertinentiis, ut praedictum est, infeodavero vel infeodaverint. Et si contigerit, quod absit, quod dictae duodecim marcae Sterlingorum, bonorum et legalium, de dicta terra de Salmane, in manibus dicti Willielmi Boyd, haeredum seu assignat. suorum nunc existent. per eos non poterint levare; obligo me, haeredes meos, terras meas, et omnia bona mea mobilia et immobilia, ad voluntatem dicti Willielmi Boyd, haeredum suorum et assignatorum, fore capienda, distringenda, abducenda, et sine licentia cujuscunque judicis, ecclesiastici vel saecularis, vendenda, quousque ego vel haeredes mei, dicto Willielmo et haeredibus suis vel assignatis, de praedictis duodecim marcatis terrarum praedictarum, per infeodationem antedictam, satisfecero vel satisfecerint. In cujus rei testimonium, Sigillum meum praesentibus est appensum. Datum apud Fowlwood, decimo die mensis Augusti, Anno Domini 1371." Quas quidem litteras, in omnibus punctis, articulis, conditionibus et circumstantiis suis quibuscunque, forma pariter et effectum, in omnibus et per omnia ratificamus, approbamus, et pro nobis et haeredibus nostris in perpetuum confirmamus; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae confirmationis nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patribus, Willielmo et Patricio, S. Andreae et Brechin. Ecclesiarum Episcopis; Johanne Primogenito nostro, Comite de Carrick et Senescallo Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas, Johanne de Carrick, Cancellario nostro; Jacobo de Lyndesay, nepote nostro, Hugone de Eglinton et Roberto de Erskyne, militibus. Apud Perth, vicesimo-quarto die mensis Februarii, Anno Regni nostri quarto.

CONFIRMATIO CARTAE DAVIDIS II. JOHANNI DE ALLINCRIM.

IT IS THE 107TH CHARTER OF THE 3D ROLL OF KING ROBERT III.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, Clericis et Laicis, Salutem. Sciatis nos Cartam inclitae memoriae Domini David Regis Scotorum illustris, avunculi et praedecessoris nostri, visam, lectam, inspectam, et diligenter examinatam, non vitiatam, non cancellatam, non rasam, non abolitam, nec in aliqua sui parte suspectam, intellexisse ad plenum, sub hac forma: "David, Dei Gratiâ, Rex Scotorum; Omnibus probis hominibus totius terrae suae, Salutem. Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse Johanni de Allyngrim, clerico nostro familiari et dilecto, omnes terras quae fuerunt quondam Richardi de Bochyford, in baronia de Crawford-Lindesay, infra vicecomitatum de Lanark; quae nos contingunt ratione forisfacturae Willielmi de Bochyford, filii et haeredis dicti quondam Richardi, contra pacem et fidem nostram existentis. *Tenend. et Habend.* eidem Johanni et haeredibus suis, de capitali domino dictarum terrarum, in feodo et haereditate, per omnes rectas metas et divisas suas; libere, quiete, plenarie, integre et honorifice; cum omnibus libertat. commod. aysiamentis et justis pertinentiis quibuscunque. *Faciendo* inde capitali domino dictarum terrarum, praefatus Johannes et haeredes sui, servitium de praedictis terris, cum pertinentiis, debitum et consuetum. In cujus rei testimonium, praesenti Cartae nostrae, Sigillum nostrum praecepimus apponi. Testibus, venerab. in Christo patribus, Willielmo et Patricio Cancellario nostro, Sancti Andreae et Brechinen. Ecclesiarum, Dei Gratiâ, Episcopis; Roberto Senescallo Scotiae, Comite de Stratherne, nepote nostro

carissimo ; Patricio de Dumbar, Comite Marchiae et Moraviae, Thoma Comite de Marr ; dilectis consanguineis nostris, Willielmo Comite de Fyfe et Johanne de Preston, militibus. Apud Edinburgh, duodecimo die Aprilis, Anno Regni nostri vicesimo-octavo.” Quam quidem Cartam, donationemque et concessionem in eadem contentas, in omnibus punctis suis et articulis, conditionibus et modis, ac circumstantiis suis quibuscunque, forma pariter et effectum, in omnibus et per omnia, approbamus, ratificamus, et pro nobis et haeredibus nostris in perpetuum confirmamus ; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae nostrae confirmationis, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo patre, Willielmo Episcopo Sancti Andreae ; Johanne Primogenito nostro, Comite de Carrick et Senescallo Scotiae ; Roberto de Fife et de Meneteth, filio nostro dilecto ; Willielmo de Douglas et de Marr, Comitibus, &c. Apud Renfrew, vicesimo-quarto die mensis Octobris, Anno Regni nostri septimo.

CONFIRMATIO ROBERTI II. DONATIONIS LAURENTII DE
HAYA DE EASTER-KINDY, ROTUL. 4.

ROBERTUS, Dei Gratiâ, Rex Scotorum ; Omnibus pro-
bis hominibus—Sciatis nos Cartam Laurentii de Haya de
Easter-Kindy, de mandato nostro visam, inspectam, lectam
et diligenter examinatam, de verbo in verbum intellexisse,
sub hac forma : “ Omnibus hanc Cartam visuris vel audi-
turis, Laurentius de Haya Dominus de Easter-Kindy, Salu-
tem in Domino sempiternam. Noveritis me dedisse, con-
cessisse, cum consensu et assensu Finlai de Haya, filii mei
et haeredis ; et hac praesenti Carta mea confirmasse, di-
lecto meo et speciali Johanni Clerico, omnes terras meas

de Lonyanys, jacentes infra Vicecomitatum de Innernyss, cum pertinentiis, in purum et liberum maritagium cum Margareta filia mea. *Tenend. et Habend.* dicto Johanni et Margaretae, conjunctim et divisim, vel eorum alteri diutius viventi, et haeredibus suis inter ipsos procreatis seu procreandis; quibus forte deficientibus, mihi et haeredibus meis quibuscunque; cum omnibus commod. libertat. et aysiammentis; in viis, semitis, boscis, planis, moris, maresiis, turbariis, petariis, aucupationibus, venationibus, piscationibus, molendinis et multuris, pascuis, pratis et pasturis, curiis et exitibus earundem, et caeteris omnibus pertinentiis suis, ad dictas terras spectantibus quomodolibet, prope et procul, tam subtus terra quam supra terram, tam non nominatis quam nominatis—spectare valent. in futurum; libere, quiete, plenarie et honorifice, sine aliquo retinemento, in perpetuum. *Reddendo* inde domino capitali earundem, servitium debitum et consuetum. Quas quidem terras de Lonyanys, cum pertinentiis, ego Laurentius de Haya, et Finlaus de Haya filius meus praedictus, et haeredes nostri, dictis Johanni et Margaretae sponsae suae, et haeredibus suis, in forma praemissa warrantizabimus, acquitabimus, et contra omnes homines et faeminas, pro servitio praedicto faciendo, in perpetuum defendemus. In cujus rei testimonium, praesenti Cartae meae Sigillum meum est appensum. Datum apud Perth, in Festo S. Andreae Apostoli, Anno Domini 1376. Hiis testibus, David de Grahame milite; Thoma de Haya, Domino de Errol, Constabul. Scotiae; magistro Roberto Gatmill, magistro Johanne Sommervill, Johanne Rollo, Nicholao de Haya, Willielmo de Bergyll, Hugone de Abernethy, Willielmo de Lychou, ac multis aliis.” Quam quidem Cartam, in omnibus punctis, articulis, conditionibus et modis, ac circumstantiis suis quibuscunque, forma pariter et effectum, in omnibus et per omnia, approbamus,

ratificamus, et pro nobis et haeredibus nostris in perpetuum confirmamus; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae confirmationis nostrae, nostrum praecepimus apponi Sigillum. Testibus, venerab. in Christo Patre Willielmo Episcopo S. Andreae; Johanne Primogenito nostro, Comite de Carrick, Senescallo Scotiae; Roberto Comite de Fife et de Meneteth, filio nostro dilecto; Willielmo Comite de Douglas, consanguineo nostro; Johanne de Carrick, Cancellario nostro; Hugone de Eglinton, Jacobo de Lyndesay, nepote nostro, et Roberto de Erskine, militibus. Apud Perth, ultimo die Novembris, Anno Regni nostri quinto.

The last argument I shall adduce is taken from the title of *Senescallus*, retained in the foregoing Charters by John Earl of Carrick. This office is mentioned, p. 5 of our laws, ascribed to Malcolm Mac-Kennet; but not fully defined: For all that we can gather from that chapter, entituled, *De Feodo Senescalli Domini Regis et aliorum domesticorum*, is, that his fees, or honorary, amounted to forty pounds; *Item, ordinaverunt pro feodo Senescalli domus Domini Regis*, 40 lib. art. 1: And that he had a power and jurisdiction over the household and under officers; such as the *Clericus liberationis*, whom Skene alleges to be the clerk of the liveries, and I take to be the comptroller, *Clericus compotorum*; the *Clericus de Coquina*, the *Panetarius*, *Butticularius*, the *Pistor*, *Brassiator*, *Magister Cocus*, the principal officer of the kitchen, called in French *le Maistre Queux*, *Lardarius*, *Janitor*, *Ostiarius Coquinae*, *Ostiarius Aulae*, *Ostiarius ad Cameram Regis*, *Factor ignis in aula*; and other servants *de minori statu*, whose salaries are either specified and determined in the different articles of the said chapter, or referred to the Steward, as appears by the last

article: *Item, omnes alii ministri Regis de statu minori, quilibet habebit quadraginta solidos pro feodo suo, vel per considerationem Domini Seneschalli, vel aliorum de Concilio Domini nostri Regis.* From which Court, where the Steward presided, and all domestic affairs were discussed, it is probable that the name *Seneschallus* was derived; for *Sen*, in the old language, signifies *Justitia*, and *Scalcus*, *Praefectus*; so that *Seneschallus* must be *Justitiae Praefectus*. Accordingly, in the *Pratiques of Normandy*, *le Grand Coutumier de Normandie*, chap. 10, the Great Seneschal, is a judge appointed for amending the failings and abuses of the inferior courts. In Britany, where I resided several years, the judges of *Fougeres* and *Vitry* were called *Seneschaux*. In the Book of *Hugh de Cleriis*, printed in the fourth tome of *Andrew de Chesne, inter Scriptores historicos Francorum*, the Count of Anjou is called *Steward of France*, or, *Judge of the King's Household*, *Seneschallus*. King Robert gave this office perpetually to Geofroy Grisogonell, Earl of Anjou, as a reward for his services done to the crown; whilst Hugh Capet was alive, Foulques his son, Geofroy Martel his grandchild, as also Foulques, grand-nephew to Geofroy Martel, King of Hierusalem and Earl of Anjou, succeeded him in that dignity. Under this last it is clear, that all civil actions at court were finally determined by the Steward as judge. *Item, quando erit in Francia, (viz. Comes Andegav.) quod et Curia sua judicaverit, firmum erit et stabile: Si vero contentio aliqua nascatur, iudicio facto in Francia, Rex mandabit quod Comes veniat illud emendare; et si pro eo mittere noluerit, scripta utriusque partis Comiti transmittat, et quod inde sua Curia judicabit, firmum erit et stabile.* Ego Hugo de Cleriis vidi multoties iudicia facta in Francia, in Andegavia emendari. Coment. Hugonis de Cleriis.

Amongst us, Marcow Mac-Kennedy, *Seneschal* to Duncan Earl of Carrick, was judge of that country; *Alexandro II. Gilbertus de Home, Seneschallus Comitiss Patricii*, mentioned in the records of Durham, was judge of the Merse; *Absolon, Seneschallus Maldoveni Comitiss*, was judge of Lennox, Anno 1238, Cart. Arbroth. p. 310; and *Rogerus Seneschallus de Passelet*, witness to a charter of *Dufgallus*, brother to the Earl of Lennox, p. 319, Cart. *Passelet*. was judge of what lands were subject to that abbot's jurisdiction. Nevertheless, the President Fauchet, in his elaborate Treatise of the Origin of the Dignities and Magistrats of France, chap. 10, derives the word *Seneschallus* from *Scalco*, or *Siniscalco*, which is interpreted, in the old French language, *Praepositus mensae*. *Vossius, de vitiis sermonis*, calls him *Regiae mensae Praefectus, Oeconomus, Architriclinus*. And so he is named by Aimoin, lib. 4, cap. 78. *Regino Prumiensis* calls him *Princeps Coquorum*; and others, from the *Teutonic*, *Dapifer*, who hath care of the meat, or flesh. Hincmar, Archbishop of Rheims, Epist. 3, cap. 23, describes his prerogatives: And St. Bernard, in his 78th Epist. *ad Sugerium, Abbatem Sancti Dionisii*; wherein he complains of Stephen* of Garland, Archdeacon of Paris,

* The Chronicle of Marigny, written about the same time, tells us, That this *Stephen de Garlande*, being puffed up with his good fortune, was so bold as to offend Queen Adela, spouse to King Lewis, surnamed Grossus; upon which account he was turned out of Court, and lost his master's favour: That shortly after he revolted against the King, with some of his allies, who were men of great authority; but peace being concluded, and the wars ended, he was reduced to pass the remnant of his tedious days at Orleans, upon the river of Loire; being Dean of the Cathedral Church of that city, but never Bishop of Paris, as Duplex and some other French writers have alleged, taking, by mistake, Stephen Bishop of Paris, of the same name, who was cotemporary, but neither Chancellor nor Steward of France, for Stephen of Garland, Lord of Livry and Gournay, near the capital of that kingdom, who discharged these eminent offices for several years.

and Chancellor of France, gives us a just notion of that employment, in the following words: *Par satis utrobique abusio, sive quod Diaconus mensae Regiae deputetur ministerio, sive quod Regis Dapifer misterius Altaris inserviat. Quis sane non miretur, immo et detestetur, unius esse personae et armatam ducere militiam, et Alba Stolaque indutum, in medio ecclesiae pronunciare Evangelium? Tuba indicere bellum militibus, et jussa Episcopi populis intimare?—Curiam, Ecclesiae praefert; Regis mensam, Altari Christi; et Calici Domini, Calicem daemoniorum: et paulo post, cum sit Archidiaconus, Decanus, Praepositusque in diversis Ecclesiis, nihil horum tamen, tam eum quam Regis delectat vocitari Dapiferum.*

We have a fuller account of this dignity, given by Hugo de Cleriis, apud Sirmondum, in calce notarum ad Epistolas Goffridi Windocinensis, as follows: *Si vero ad Coronamenta Regis Comes ire voluerit, viz. the Earl of Anjou, Great Seneschal of France, to whom the superiority and feu-duties of that office belonged, Seneschallus liberare et praeparare faciat hospitium, quod Comes habet proprium et debitum. Cum autem die suae coronae, ad mensam Rex discubuerit, scamnum pulcherrimum, fulchro pallii aut tapeto coopertum, Seneschallus (the under Seneschal, or ordinary Seneschal of France, of the family of Garland) praeparabit, ibique Comes, quousque fercula veniant, sedebit: Cum vero primum venerit ferculum, Comes, se defibulans, a scamno surget, et de manu Seneschalli ferculum accipiens, ante Regem et Reginam apponet, et Seneschallo praecipiat, ut exinde per mensas serviat; et Comes retro sedebit donec alia veniant fercula, et quemadmodum super primo fecit, de aliis similiter faciat. Finita demum celebratione mensarum, Comes equum ascendet, et ad suum redibit hospitium, Seneschallo comitante. Deinceps, equus ille quem Comes adduxerit ad curiam, dextrarius, viz. coquo Regis feudaliter dabitur. Pallium, quo in curia affibulatus erit, dispensatori dabitur (au chef d'office), sciz. post prandia. Tunc Panne-*

tarius mittat Comiti duos panes, atque vini sextarium, et coquus, frustrum carnis atque vini haustum. Haec est enim liberatio Seneschalli illo die. Haec fercula accipiat Seneschallus Comitis, atque dabit leprosis.

All which shows us, that the two most important functions of the Steward were, to serve the King and Queen at table on all public ceremonies and solemn days, and to oversee and rule the household; upon which account there were several lands reserved for supporting his state and dignity. In Scotland, the same duties were annexed to this office; his jurisdiction was extended over the King's table, castles, and household: Hence he was called first, *Dapifer Regis*, then *Seneschallus Scotiae*, for distinguishing him from the petty officers belonging to the Earls or Bishops in the country, who went under the like designations; for amongst the witnesses to the foundation of Caldstream, by Cospatrick Earl of Dumbar, I find * *Haldanus* styled *Dapifer*; and in a confirmation of Layval, Birgham, and the church of Harishille, to Coldinghame, by the same *Cospatricius Comes, Lambekin* is named *Dapifer*. There were many manors, shires,

* A learned and worthy writer of late hath fancied, p. 382 of his Collections, that this *Aldanus*, or *Haldanus*, witness to Waldewe's Charter of Dundass, was father to Walter I., predecessor to our Kings. Notwithstanding I have all dutiful regard for his sentiment elsewhere, yet I must here be allowed to be of a different opinion: 1mo, Because *Aldanus* is designed *filius Alfemeldi* in a Charter granted by King David to Thurstin Archbishop of York, who was consecrate at Rheims by Pope Calixtus III., and died at Pontefract in 1140; whereas the other's father is no where mentioned. 2do, Because *Aldanus's* son is named *Cospatrick, Cospatricius filius Aldan*, in the inquisition made by David, Earl of Cumberland, of the lands belonging to the church of Glasgow; whereas the other's son is *Walterus filius Alani*. And, 3tio, Because *Alanus* was cotemporary to Macbeth and Malcolm III., and *Aldanus* to Corspatrick Earl, who died in 1066, and to his son Earl Waldewe, who died in 1181, to whom he was Steward, or *Dapifer*, and not to the King; for he is simply named *Dapifer*, whereas the Steward of Scotland is called *Dapifer Regis Scotiae*.

and baronies, belonging to the same office. It was hereditary amongst us, as it was in France; and had been possessed, by a constant succession from father to son, by the undoubted lawful heir, since Walter the son of Allan, who is witness to King David's Charters at Carlisle, in 1150, to King Robert's accession to the Crown in 1371; at which time John Earl of Carrick succeeded to that honour (which had given the surname to his family), not by any peculiar charter or grant, but by the ordinary course of law, whereby the eldest lawful son succeeds to all hereditary employments which the father cannot discharge personally, and by himself.

From all these weighty reasons, it is clear that the Earl of Carrick behoved to be no bastard, and his mother no concubine, but regularly married to the Steward, not in 1340, as Mr. Innes and Dr. Gray fancy; nor in 1339, as Mr. Hearne believes; nor in 1337 or in 1338, as Mr. Sage gives out; but in 1334, as I shall clearly prove; otherwise he had been debarred from the succession, according to what principles I have laid down in the beginning of this book, p. 2 and 3.

It appears, indeed, that Mr. Sage hath foreseen the bad consequences that naturally flowed from these false calculations, made by the publisher of the *Carta Authentica*, and the other writers who have undertaken King Robert's defence. Whereupon he hath distinguished two different marriages; the one, called amongst us, *Desponsatio Clandestina*; the other, a legal and canonical marriage, after the dispensation was procured from Avignon, once the residence of the Popes; which is understood by the schoolmen to be, “*Maris et Foeminae indissolubilis conjunctio, quae, mutuo et legitimo contrahentium consensu, per verba de praesenti, in conspectu Ecclesiae expresso, conficitur, cum maturam connubio.*

aetatem personae idoneae attigerint.” This distinction hath no other ground nor foundation than a bare conceit of its contriver, neither does it come up to the purpose. But let his scheme be allowed ; let the private marriage be patched up in 1335 or 1336, *nemine praesente, et sine Sacerdotali benedictione, in nuptiarum solemnitatibus adhiberi consueta, ut pericula quae ex clandestinis copulationibus suboriri possunt, excludantur* : Let the legal marriage be contrived and solemnized in 1337, or in 1338 ; *ut occultum matrimonium, ex mutuo contrahentium consensu initum, nova, libera et aperta amborum confessione, in Templo, coram Parocho proprio et testibus facta, confirmetur, et conjugalis vinculi firmitatem et robur accipiat* ; John Earl of Carrick will be constantly found spurious. For notwithstanding that we know, “ That solus inter duos consensus, non turpis utriusque sexus commixtio, matrimonium efficit ; nec ad necessitatem conjugii requiritur, ut contractus matrimonii, praesentibus testibus, aut consociis parentibus, transigatur.”—*Concil. Trident. sess. 24, cap. 1, de Reformat. Matrimon.* Yet if the Steward had kept and enjoyed Elizabeth under the shadow of a private marriage, *nullis factis aut adhibitis solemnitatibus* ; or if Elizabeth had kept company, or lived as wife with the King whilst he was a subject, *spe dispensationis consequendae*, John, who is supposed to have been born before the dispensation was brought from Avignon, in the county of Venascin in Provence, would certainly have been accounted a bastard, because his father and mother were in the forbidden degrees of consanguinity or affinity, *constante occulto matrimonio* : “ Nam impedimentum infra quartum gradum proveniens, ex affinitate sive consanguinitate, matrimonium contractum et consummatum, non impetratis ab Oratoribus Litteris Apostolicis dispensationis, irritum facit ;” according to the canon law. And the famous

Council of Latteran, held at Rome in 1215, under Pope Innocent III. cap. *Cum inhibitio*, in the following terms : “ *Cum inhibitio copulae conjugalis sit in ultimis tribus gradibus revocata, eam in aliis volumus districte servari ; unde praedecessorum nostrorum vestigiis inhaerendo, clandestina conjugia penitus inhihemus : Prohibentes etiam, ne quis Sacerdos talibus interesse praesumat.*” *Et cap. Si*, “ *Si quis vero hujusmodi clandestina vel interdicta conjugia inire praesumpserit, in gradu prohibito, etiam ignoranter, soboles de tali conjunctione suscepta, prorsus illegittima censeatur, de parentum ignorantia nullum habitura praesidium—Pari modo, proles illegittima censeatur, si ambo parentes, impedimentum scientes legitimum, praeter omne interdictum, etiam in conspectu Ecclesiae, contrahere praesumpserint.*” This constitution of Pope Innocent, which was made in presence of 412 bishops, gathered from all the corners of this visible world, destroys entirely Mr. Sage’s system ; for thereby all private marriages are forbidden, as odious, and directly contrary to the good order of the church and government ; and the children of such persons as are related *in gradu prohibito*, in the fore-mentioned degrees, and yet contracts, either privately, *sub praetextu ignorantiae*, or publicly, *habita impedimenti notitia*, without a license from his Holiness, are declared unlawful, *etiamsi publicatio sponsalium, ante conjunctionem, tribus diebus festivis, non immediate se invicem sequentibus, sed per aliqua dierum intervalla a se distantibus, in Ecclesia, coram multitudine fuerit proposita* : Which is a formality required by the rituals of St. Andrews and Holyroodhouse, for perfecting the canonical or legal marriage ; for although a child begotten in fornication betwixt two single persons, or during the concubinate, is legitimate by the subsequent marriage, according to the imperial and canon law, *virtute*

supervenientis matrimonii ; although a man and a woman, no ways related, and privately married, *antequam factae fuerint denunciationes*, against the preceding constitution, which was universally received, may obtain a dispensation for marrying thereafter publicly, *peracta salutarī poenitentia propter stuprum*, and thereby the child may be sufficiently qualified for the succession : yet if they be privately married *in gradibus prohibitis, et subsequuta fuerit carnalis copula* ; the child so procreate will be constantly looked upon as a bastard ; and there will be no dispensation granted thereafter to the parents for a second marriage. The general reason assigned by the canonists is, *Propterea quod tales consanguinei et affines, per hanc carnalem copulam, redditi sunt inhabiles ad contrahendum matrimonium, ex eo quod dicantur commississe incestum, qui impedit incestuosos contrahere*. Repelling then the private and supposed marriage made at random by Mr. Sage, I must conclude, that the Steward having purchased a dispensation, and the case adduced in his libel being fully proven by witnesses, and all things discussed before the Bishop as sub-delegate (*Quia Episcopus, autoritate ordinaria* (according to the canon law), *non habet facultatem in gradibus affinitatis seu consanguinitatis a jure prohibitis, inter contrahentes matrimonia, dispensandi*), obtained, by his decret, a license to marry Elizabeth More, his cousin, under the conditions mentioned in the minute ; and accordingly, that the ceremony was actually performed by Roger Mac-Adam, chaplain, no doubt, or curate to Rowallan, Anno 1334. At which time the Castle of Dunholm in Coile being surrendered, Allan de Lyle, Sheriff of Bute, being killed, Carrick, Kyle, Cunninghame, and Renfrew, the Steward's private inheritance, being returned to their duty, he behoved necessarily to marry, for securing the succession in his family, and preventing all disorders that might arise by

the Balliol, in case he came to die without issue, being then nineteen years of age.

I am loth any more to disturb Mr. Sage's ashes ; yet by the way I must notice, that that good old grey-headed writer hath no shadow nor ground to reflect, in his Introduction to Hawthornden's Works, p. 30, upon Sir James Dalrymple, one of the most religious, most learned, and most judicious gentlemen of our country ; since Major makes use of the very same words and expressions that are found in Fordun's continuators, as may be seen by comparing their passages in the following table.

CODEx HAYANUS, LIB. 17,	JOHANNES MAJOR, LIB. 4,
CAP. 21.*	CAP. 17, IN GENEAL. JACOBI V. FOL. 76.

“ ISTE Robertus copulavit sibi de facto unam de filiabus Adae More, militis, de qua genuit proles ; quam postea, impetrata dispensatione, in matrimonium desponsavit, ut postea dicetur ; ex qua genuit Robertum III. Regem ; Robertus III. Jacobum Regem I. hoc nomine : Jacobus I. Jacobum II. Regem, qui nunc superest.”

“ ISTE Rex de facto unam de filiabus Adae Mure, militis, sibi copulavit, quam postea, per dispensationem, uxorem duxit : ex qua Robertum III. genuit ; et Jacobum I. Robertus III. procreavit ; et Jacobum II., Jacobus I. genuit. Et Mariam Ducis Geldriae filiam, Jacobus II. in uxorem duxit ; de qua tres filios et natas duas procreavit,” &c.

* This book is a large folio, of Bowmaker, written at Inch Colm, in glorious characters. It belonged to the Abbey of Cowpar, afterwards to Sir William Saintclair, Lord Justice General. Sir Lewis Stewart purchased it, after the Castle of Roslin was surrendered to General Monk ; and falling to his son, it was lent by my aunt Lady Kettlestoun, his spouse, to Mr. Andrew Hay, my uncle,

CODEx HAYANUS, LIB. 34,
CAP. 28.

JOHANNES MAJOR, DE GESTIS
SCOTORUM, LIB. 6, CAP. 6,
FOL. v. 121.

“ Et est notandum, Quod praedictus Robertus Rex, de Domina Elizabeth, filia Domini Adam de More, genuit tres filios, scilicet Johannem, qui postea fuit Rex, et Robertum Ducem Albaniae, ac praemissum Alexandrum, Comitem Buchaniae, qui vulgo dicebatur Lupus de Badynach. Dehinc desponsavit Dominam Eufemiam, filiam Hugonis Comitis Rossensis; de qua genuit Walterum Comitem Adoliae—et David Comitem de Stratherne. Sed mortua Regina Eufemia, desponsavit praemissam Dominam Elizabetham; et sic, virtute supervenientis matrimonii secundarum nuptiarum, legittimati sunt dicti fratres, Johannes, scilicet, Robertus et Alexander; quia, secundum Canones, matrimonium sequens legittimat filios natos ante hujusmodi matrimonium.”

“ Ex Elizabetha filia Domini Adae Mure, tres filios Robertus Rex genuit, scilicet Johannem, qui postea fuit Rex, et Robertum Albaniae Ducem, et Alexandrum Buchaniae Comitem. Postea ex Euphemia, Rossensis Comitis filia, Galterum Comitem Atholiae, et Dominum de Brechin; et David Comitem de Stratherne genuit. Mortua enim Elizabeth Regina, hanc Eufamiam in conjugem accepit, et, matrimonii gratia, proles legittimatae sunt.”

not my father, as the Lord Bishop of Carlisle calls him, p. 97 of his Scots Historical Library; my father being Captain George Hay, a younger son of Sir John Hay, Lord Register; and my mother, Dame Jean Spotiswood, Lady Roslin, daughter to Sir Henry Spotiswood, High Sheriff of Dublin, and Gentleman of the Green Cloth. I recovered it from the rabble, and carried it beyond seas. It is more complete than any manuscript I have found abroad or met with at home, and will shortly be published.

There is no man that understands perfectly the Latin tongue, and is willing, seriously, and with attention, to read the foregoing passages, but will acknowledge, that the word Elizabeth is transposed for Euphame ; and that Major's sentiment is the same with that of Bowmaker and his transcribers : which appears clearly from the extract, thus, *Mortua enim Eufamia Regina, hanc Elizabetham in conjugem accepit.* In which case, the pronoun *hanc* may be very well applied to Elizabeth, without any grammatical escape ; and *illam* was noways necessary, since Euphame was supposed to be dead.

Moreover, Euphame was lawfully married to John Randolph Earl of Murray, who was killed at the unfortunate battle of Durham, in 1346 ; at which time, Elizabeth More was dead. Neither were ever Euphame's children suspected to have been unlawfully begotten by the King, nor was there any dispensation procured when he took her to his wife. So it being evident from Major, lib. 4, cap. 17, that the *Steward unam de filiabus Adac Mure de facto sibi copulavit* (which words do not signify that he married her privately, for *copula carnalis* imports, in the civil law, a base and scandalous conjunction of a man and woman, not joined together, by a lawful bond, in marriage,) and naming that daughter, lib. 6, cap. 6, Elizabeth, mother to John, Walter, Robert, and Alexander, before he espoused Euphame ; and even assuring us, in the bosom of the paragraph, lib. 4, cap. 17, that there was a dispensation procured for marrying her : It is manifest, that the sentence in the 6th book, chap. 6, *Et matrimonii gratia, proles legittimatae sunt*, hath a reference to the dispensation, which was purchased as the most proper and most effectual method and means for legitimating Elizabeth's children begotten in fornication ; and consequently, that the error in Major proceeds from transposing the

words Elizabeth Regina, for Euphamia Regina; as Sir James Dalrymple hath modestly observed, p. 40 of his Preface to the Collections concerning the Scots History; which immortal book will be an everlasting testimony of his extraordinary abilities, and peculiar skill in antiquities and history. For if the literal meaning and text which are forced by Sage, were pressed or admitted against the true sense, Major would certainly deserve the uncharitable character George Buchanan hath left of him, lib. 1: Epigram.

In Johannem, solo cognomine, Majorem.

Cum scateat nugis, solo cognomine, Major,

Nec sit in immenso pagina sana libro;

Non mirum, titulis quod se veracibus ornat,

Nec semper mendax fingere Creta solet.

For his account would not be found exact nor sufficient, Euphame having never been considered as a concubine, nor Elizabeth, as Queen of Scotland.

The example Mr. Sage adduces for supporting his scheme, of a man who had successively three wives in one year, is a very wild and extravagant conceit, and makes me smile. I do not indeed question but such a thing hath fallen out amongst some incontinent and debauched persons; but we have no such thing recorded in history; nor has ever any such fact, so far as I can learn, happened amongst Christian Princes, whose magnificent palaces appear mournful and melancholy for a long tract of time, after the loss of their ladies. Neither can it be allowed in the present case, since Elizabeth was reduced to dust in 1364, according to the Authentic Charter, mentioned p. 49; and according to King Robert III. his confirmation of the lands of Thornle, in 1357. And Queen Euphame,

who died only in 1387, was undoubtedly married to the Earl of Stratherne in 1370; as is clear from a document recorded in the collection of King David's Charters, cited p. 57, which leaves no room for naming Elizabeth Queen.

I have cheerfully embraced this precious opportunity, for vindicating my worthy friend, (for whose memory and eminent family, I shall ever have a singular regard, and a just and dutiful respect and consideration) from the bitter invectives and sharp satire, penned, with a great deal of heat and passion, by Mr. Sage, whilst he was displaced, chagrined, and out of humour. And with this I shall dismiss the reader, after I have acquainted him, that this peevish author ridiculously supposes, p. 42, Morham to be insert, by contraction, for Mariotam, by the noble Earl of Cromerty, p. 43* of his Vindication of Robert III. which deserves a better edition; yet, it is universally known, that he never consulted the public registers, where the patent is set down verbatim, as follows, in the 8th roll of King Robert II. his Charters, Num. 29, wherein John Stewart, begotten on Morham, is distinguished from the children begotten upon Mariota de Cardny, his other concubine.

* This refers to the 4to. copy of the Earl of Cromerty's Book, which is very inaccurate. The 8vo. edition was not published till some time after Sage wrote his Introduction to Drummond's Works.—*Publisher's Note.*

CARTA ROBERTI II. JOHANNI SENESCHALLI, FILIO SUO
SPURIO, DE TERRIS DE BALLACHYS.

ROBERTUS, Dei Gratiâ, Rex Scotorum; Omnibus—
Sciatis nos dedisse, concessisse, et hac praesenti Carta
nostra confirmasse dilecto filio nostro Johanni Seneschalli,
genito inter nos et dilectam nostram Moram, omnes et
singulas terras nostras de Ballachys, Muernate et de
Mukesy, cum pertinentiis, in Thanagio de Kynclevyn,
infra vicecomitatum de Perth. *Tenend. et Habend.* eidem
Johanni et haeredibus suis, de corpore suo legitime pro-
creandis; quibus forsan deficientibus, dilecto filio nostro
Jacobo Seneschalli, genito inter nos et Mariotam de
Cardnay, et haeredibus suis de corpore suo legitime
procreandis; quibus utique forsan deficientibus, Alexandro
Seneschalli, dilecto filio nostro de dicta Mariota, et hae-
redibus suis de corpore suo legitime procreandis; qui-
bus etiam forsan deficientibus, dilecto filio nostro Johanni
Seneschalli, de eadem Mariota genito, et haeredibus suis
de corpore suo legitime descensuris; quibus similiter
fortasse deficientibus, ad nos et haeredes nostros Reges
Scotiae, plenarie et perpetuo reversur. de nobis et haere-
dibus nostris, in feodo et haereditate in perpetuum; libere,
quiete, plenarie, integre—per omnes rectas metas et divisas
suas, antiquas et novas; in domibus et maneriis, boscis et
planis, moris, maresiis, viis, semitis, aquis, stagnis et
rivulis, ac lacubus, petariis, turbariis, vivariis, pratis,
pascuis et pasturis, aucupat. venation. et piscariis, mo-
lendinis, multuris, et eorum sequelis, antiquis et novis;
cum curiis, curiarumque sectis, exitibus, eschaetis; cum
tenandiis—natis, bondis—*Reddendo* inde nobis annuatim,
et haered. nostris, unum denarium argenti, nomine Albae-

firmae, apud Ballachys, si petatur tantum; pro wardis, releviis, maritagüs—In cujus rei testimonium—Testibus—Apud Perth, decimo-quinto die Januarii, Anno Regni nostri duodecimo.

APPENDIX,

CONTAINING

THE COPIES OF SEVERAL CHARTERS

RELATING TO THE PRECEDING

VINDICATION;

WITH SOME HISTORICAL AND CRITICAL REMARKS BY
THE AUTHOR.

No. I.

Copy of an Instrument taken at Scoon, in 1371, by JOHN Earl of CARRICK, after he had been owned and acknowledged, in a public Meeting, as righteous Heir to King ROBERT, and undoubted successor to the Crown. Taken from the Original, of late somewhat defaced. Mentioned in page 5.

DECLARATIO PARLIAMENTI, UBI JOHANNES, PRIMOGENITUS
ROBERTI II. REGIS, HABET SUCCEDERE IN REGNUM. XXVII.
MARTII, MCCCLXXI.*

IN Nomine sanctae et individuae Trinitatis, PATRIS ET FILII
ET SPIRITUS SANCTI. Amen. Anno, ab incarnatione Domini,
millesimo, trecentesimo septuagesimo primo, secundum morem et
computationem ecclesiae Scotticanae, mensis Martii die vicesimo

* This is printed from Ruddiman's Answer to Logan (Appendix, No. II.), it being there more full and accurate than in Hay's copy. It has also been compared with the fac-simile engraved in 1795.—*Publisher's Note.*

septimo ; Serenissimus Princeps Dominus ROBERTUS, Dei Gratiâ, Rex Scottorum illustris, apud Sconam, tempore suae coronationis, existens ; assistantibus sibi Praelatis, Comitibus, Baronibus, ac ceteris de clero et populo regni sui ; post sacra * unctionis et coronationis suae peracta solennia, factaque declaratione juris, quo idem Serenissimus Princeps successit, ac succedere debuit, Domino DAVID Regi Scotiae, avunculo et praedecessori suo, tam proximitate sanguinis, quam ex quadam declaratione, per quaedam instrumenta confecta tempore inclitae memoriae Domini ROBERTI Regis Scotiae, avi et praedecessoris ipsius Domini nostri Regis, ibidem exhibita atque lecta ; Nec non, receptis homagii et fidelitatis solitis juramentis ab ipsis praelatis, Comitibus, Baronibus, et aliis de clero et populo ibidem existentibus, in coronatione Regum Scotiae ab olim praestari consuetis et debitis : Volens, more et exemplo celebris memoriae ejusdem boni Regis Roberti, avi sui, coram clero et populo, successorem et verum heredem suum declarare ibidem, licet de ipso clare constitit atque constet ; ex habundanti, et unanimi consensu et assensu dictorum Praelatorum, Comitum, Procerum et Magnatum, indicavit, asseruit et recognovit, declaravit et voluit, Quod cum ipsum contigerit, pro dispositione Divina, ab hac luce migrare, Dominus JOHANNES, filius suus primogenitus, Comes de Carrik et Senescallus Scotiae, erit, et esse debet, verus et legitimus heres suus, ac sibi, post mortem suam, in regno Scotiae, Domino disponente, succedet, et succedere debet, et post eum sedebit, et sedere debebit, super solium regni sui. Qua declaratione sic facta per ipsum Dominum nostrum Regem, de praefato primogenito et herede suo, ex habundanti, ut supra, unusquisque Praelatorum, Comitum, Procerum, Magnatum, et aliorum ibidem existentium, voce propria, singillatim, pro se, heredibus et successoribus suis, asseruit, affirmavit, declaravit, recognovit et voluit, Quod idem Dominus JOHANNES, post mortem praefati patris sui superstes et vivus, sit, Divina favente gratiâ, futurus Rex Scotiae, tanquam heres legitimus ejusdem patris sui : Promittens quilibet, bona fide, et manu, in signum fidei dationis, levata, Quod eum pro Rege et herede legitimo ejusdem patris sui habiturus

* See the end of this Appendix.

erit ; ipsumque juvabit atque defendet contra quoscunque mortales : nec non sigillum suum scripto, seu instrumento, super hoc fiendo, apponet, in signum suorum consensus et promissionis praedictorum, cum ipsi super hoc fuerint requisiti. Quibus recognitione, promisso et fidei datione, in consilio Domini nostri Regis, sic praemissis et actis, idem Dominus noster Rex, per venerabilem virum magistrum Johannem de Peblis, doctorem Decretorum, Canonicum Glasguen. clericum suum, proponi fecit in publicum, Qualiter, ex habundanti, indicavit et declaravit, praefatum Dominum JOHANNEM, filium suum primogenitum, verum suum heredem, prout est, et esse debet de jure, et post mortem suam, regni Scotiae, volente Deo, Regem futurum ; et qualiter praefati Comites, Proceres, et alii de consilio, affirmaverunt, recognoverunt, consenserunt, et fide media, ut praemittitur, promiserunt ; et qualiter omnem populum cum clero convocari fecerat, ut in eorum praesentia, et de eorum consensu unanimi, fieret et publicaretur, ne aliquis super hoc ignorantiam praetendere posset aliququaliter in futurum. Tota autem multitudo Praelatorum, Comitum et Baronum, et aliorum tam cleri quam populi, unanimi voluntate et clamore consono, nullo penitus reclamante, affirmaverunt, recognoverunt et voluerunt, ipsum Dominum JOHANNEM, tanquam primogenitum et verum heredem Domini nostri Regis, patris sui, suum fore Regem futurum ; ac manu levata, in signum fidei dationis, promiserunt, Quod eum pro Rege suo futuro, volente Deo, habituri erunt post mortem patris sui, ipsumque juvabunt atque defendent, de toto posse, contra quoscunque mortales. Quibus sic actis, praefati Praelati, Comites et Barones ibidem existentes, sigilla sua huic scripto apposuerunt, ad perpetuam et futuram memoriam, in testimonium omnium praemissorum, una cum signo et subscriptione publici tabellionis subscripti. Acta fuerunt haec apud Abbathiam de Scona, mense, die et anno supradictis.*

* This Act and Declaration is thus *translated* by the Earl of Cromerty :
 “ In the name of the blessed and undivided Trinity, of the Father, Son, and Holy Spirit, Amen. Upon the 27th day of the month of March, and year from the Incarnation of Christ 1371, according to the custom and computation of the

Et ego Johannes Rollo Clericus, Moraviensis diocesis, publicus Apostolica auctoritate notarius, praedictis indicationi, declarationi, affirmationi, nec non promissioni, manuum levationi,

Church of Scotland ; the most renowned Prince Robert, King of Scots, at Scoon, the time of his Highness' coronation (the Bishops, Earls, Barons, and others of the clergy, and people of his kingdom, standing by, and there present), after the sacred solemnities of his anointment and coronation were ended, and the declaration of his right, by which the said illustrious Prince did succeed, and ought to succeed to David King of Scotland, his uncle and predecessor, as well by propinquity of blood, as upon the account, and by reason, and by virtue of certain instruments made in the time of Robert King of Scotland, his goodsire and predecessor, of worthy memory, then opened up and publicly read : And the usual oaths of homage and fidelity being taken by the said Prelates, Earls, Barons, and others of the clergy and people there present, used and wont of old to be exacted at the coronation of the Kings of Scotland : Being desirous, after the custom and example of the foresaid good King Robert, his grandfather, of blessed memory, to declare before the clergy and people, his successor and true heir ; though the same did clearly appear, and might abundantly be known by the unanimous consent and assent of the said Prelates, Earls, Lords, and Barons : His sacred Majesty did declare, assert, acknowledge, manifest, and will, that whenever it should happen his Highness, at the pleasure of Almighty God, to depart from this life, Lord John, his Majesty's eldest son, Earl of Carrick and Stuart of Scotland, should and ought to be his lawful heir, and after his Highness' death should succeed to him in the kingdom of Scotland, by the providence of God ; and that after him, he should sit, and ought to sit, upon the throne of the kingdom : Which declaration being so emitted by our Sovereign Lord the King himself, concerning his said eldest son and heir, every one of the said Prelates, Earls, Lords, Barons, and others there present, with a full voice, one by one, for himself, heirs and successors, did assert, affirm, acknowledge, declare, and will, that the said Lord John, after the death of his said father, being to the fore and in life, by the grace of God should be King of Scotland, as lawful heir of his said father : promising each of them, *bona fide*, and having their hands lifted up to heaven, in token of their sincerity, that he should be had and esteemed as their King and lawful heir of his said father ; and that they should assist and defend him against all mortals ; as also, that they should append and put their seal to the act or statute to be made thereupon, in token of their consent and promise of these things, whenever they should be required thereto. Which acknowledgment, promise, and oath, given by them in the Council of our Sovereign Lord : the King's Majesty did cause the Right Venerable Mr. John Peebles, Clerk of the Records of the Diocese of Glasgow, to insert and record in public register, that forasmuch as he had sufficiently declared the said Lord John, his eldest son, to be now his true heir ; and

ac praedicti magistri Johannis de Peblis populo publicationi ; una cum venerabilibus in Christo patribus, Dominis Willelmo, Waltero, et Patricio Sancti Andreae, Glasguensis et Brechinensis ecclesiarum episcopis ; ac discretis viris, Dominis Johanne de Carryc, Canonico Glasguensi, Waltero de Byggar, rectore ecclesiae de Erol, Cancellario, et Camerario Scotiae ; nobilibus viris, et potentibus Dominis, Thoma de Mar, Willelmo de Douglas, et Roberto Senescal. Comitibus ; Thoma de Haya, Willelmo de Keth, Constabulario, et Marescallo Scotiae ; Archebaldo de Douglas, Jacobo de Douglas, Roberto de Erskyne, Alexandro de Lindesay, Thoma de Erskyne et Duncano Wallays, Baronibus ac Militibus ; magistro Johanne de Peblis supradicto ; et multis aliis testibus, ad praemissa vocatis pariter et rogatis, primo in secreta camera praedicti Domini Regis in suo secreto consilio, et post in camera sui Parlamenti, in publico, ut praedicatur, coram populi multitudine hoc approbante, factum, anno, die, mense et locis supra dictis, indictione nona, pontificatus sanctissimi in Christo patris et Domini nostri

that by law he ought, after his death, at the disposal of God, to be King of the kingdom of Scotland ; and that forasmuch as the said Earls, Lords, and others of the Council did affirm, acknowledge, consent, and by oath, as said is, promise : and that his Highness had called the people, with the clergy, to the effect, in their presence, and by their unanimous consent, the same might be decreed and published, lest any should pretend ignorance of this, any manner of way in time coming : The whole multitude of Prelates, Earls, and Barons, and others, as well of the clergy as people, with one accord, unanimous consent, and will (none at all gain-saying), did affirm, acknowledge, and will, that the said Lord John, as eldest son and heir of our Sovereign Lord the King, his father, should be their King : and with hands lifted up to heaven, in token of their sincerity, promised, that they should have and esteem him, after the death of his father, for their future King, by the strength of Almighty God ; and that they should defend and assist him with all their might against all deadly. Which things being so done, the said Bishops, Earls, and Barons there present, did append and put their seals to this decree for ever, in testimony of all the premises, together with the sign and subscription of the public clerk underscribing. These things were done at the Abbey of Scoon, day, month, and year of God above written," &c.—*George Earl of Cromerty's Vindication of Robert the Third*, 8vo. edit. page 39, &c.

Domini Gregorii, divina providentia Papae undecimi, anno primo ; praesens interfui, eaque omnia et singula superius expressa, dum sic agerentur, scivi, vidi et audivi ; praesens instrumentum, de manu alterius scriptum, signo meo consueto, ad instantiam praedicti Domini Johannis, ipsius Domini Regis primogeniti, Comitis de Carrik, Scotiae Senescalli, signavi hic me propria manu subscribens, vocatus pariter et rogatus, in testimonium omnium praemissorum ; interlineationem in ultima linea meae subscriptionis, *Johannis*, approbando.

The names of the lords and inferior barons who were present at this solemn declaration, are written on the one or the other side of the labels or tags ; and several of their seals are as yet entire, and appended to the authentic instrument above insert.

In the first row, on the outward side of the first tag, is written, *Epis. Sancti Andreae* : The seal appended thereto, red wax upon green ; a St. Andrew stretched on his cross, with a side coat, as he died at Patras, under the Proconsul Ægeas : On each side, two small escutcheons : Under the shield, Bishop Landal, who crowned and anointed King Robert II. the 25th of March 1371, in his pontifical garb, kneeling, his mitre on his head, and his crosier, or pastoral staff, in his hands. In the circumference of the seal, which is oval, *S. Willielmi, D. G. Epis. Sancti Andreae*. On the outward side of the second tag, *Epus. Glasgw.* On the inner side, *Epus. Sancti Andreae* : No seal. On the third tag, *Epus. Dunkeld.* No seal. On the fourth tag, *Epus. Aberdon.* No seal. On the fifth, *Epus. Morav.* No seal. On the sixth, *Epus. Rossens.* on the outer side : On the inner side, *Dumblan* : No seal. On the seventh, *Epus. Dumblan.* on the outer side : On the inner side, *Rossen.* On the eighth, *Epus. Catanens.* No seal. On the ninth, without, *Brechin.* and within, *Ergadien.* No seal. On the tenth tag, *Ergad.* without ; and *Brechin.* within : No seal. On the eleventh, *Galwidiens.* without ; and within, *Candidae Casae* : No seal. On the twelfth, *Cancellarius*, without ; and within, *Dumfermelin* : The seal appended to the tag, red upon green wax. In a niche, three persons scarce discern-

able. Above the niche, a virgin with her babe on her knee. Under the niche, John Carrick, chancellor, praying on his knees; the letters on the circumference not legible. On the thirteenth, *Camerarius*, on the outer side: On the inner side, *Aberbroth*. On the seal, which is red upon green wax, a virgin standing, with her babe in her arms, turning towards a person kneeling, his head defaced; the letters on the circumference scarce legible. On the fourteenth, *Dumfermelyn*, on the outer side; on the inner, *Melross*: The seal oval, red upon green wax. In a niche, a virgin crowned, standing with her babe in her arms, turned towards St. Margaret, clothed in royal robes, an antique crown on her head, in the right hand holding a prayer book, in the left a sceptre. Below the niche, an abbot mitred, his crosier in his hands, praying, and his mitre on his head. On the circumference, *S. Johannis D. G. Abbatis de Dumfermelyn*. On the fifteenth, *Aberbroth*. The seal oval, red upon green wax; S. Thomas, a zealous assertor of the liberties of the church, kneeling before St. John the Baptist and St. Augustin's altar, in his church of Canterbury. Opposite to the saint are represented four knights, William Tracy, Hugh Morwille, Richard Breton, and Reginald Fitz Urse, his murderers; whereof William Tracy gives him the first stroke on the head with a naked sword, the 29th of December 1170.* Behind the saint, Hugh, his sub-deacon, *qui, posito pede in collum SS. Martyris, cerebrum ejus, cum sanguine, per pavementum sparsit*. Above, the virgin, sitting in a niche with her babe, on both sides a Benedictine monk of the order of Tyron, praying, and turned towards her, the one kneeling, the other standing. Under

* Those who reckon the year to begin at Christmas, make him to have been killed in 1171; yet our most exact writers agree that he was slain on Tuesday, about eleven o'clock, in 1170, according to the following verses:

Richardus Brito, nec non Morwillus et Hugo,
 Willelmus Trassy, Richardus filius Ursi,
 Thomam martyrium fecere subire beatum,
 Anno milleno, centeno, septuageno,
 Anglorum primas corrui ense Thomas.

the saint, an abbot mitred, with his crosier, kneeling : The circumference not legible. On the sixteenth tag, *Melross*, without ; within, *Calcow*. No seal. The seventeenth hath on the outward side, *Abbas S. Crucis* ; and within, *Scoon* : No seal appended thereto. On the eighteenth tag is written without and within, *Prior S. Andreae* : No seal appended thereto.

On the second row, within the first tag, is *Glasgow* : The outward part is not legible. On the little seal, an annunciation, or an angel standing straight, looking towards a lady. I take it to be the Dean of Glasgow's Seal. The second tag wants. The third hath *Comes Marchiae*, without ; and *Jedworth*, within. On the tag a round seal, red upon green wax. The escutcheon, a lion rampant, within a bordure, charged with roses, supported with two lions. Crest, a horse's head and neck issuant out of the helmet, crowned and mantled : There seems to appear a bridle on the horse's neck. The fourth tag, without, hath *Stratherne* ; and within is written, *Dominus Walterus de Haliburton* : No seal. The fifth tag wants. On the sixth tag, without, is *Menteth* ; and within, *Dominus Jacobus de Lyndesay* : No seal. On the seventh tag, without, is written, *Reginae* ; and within, *Sigillum Domini Regis* : The seal wants, and behoved to be his ordinary seal, not the broad seal ; because the tag is proportioned to the other tags, and is not strong nor large enough for supporting a great weight. The eighth tag wants. On the ninth tag, *Dominus Jacobus de Lyndesay*, without ; the seal red, upon green wax. On the escutcheon, a fesse chequee de trois traits. No supporters. For crest, a helmet mantled, with an ostrich head and neck issuant ; no key. In the circumference, *S. Jacobi de Lyndesay*. On the tenth tag, without, *Constabularius* ; within *Dominus Johan. Seneschalli, et frater ejus* : No seal. The eleventh tag hath *Marescallus* on the outer side : There is nothing written on the inner side. On the tag, a round seal, red upon white wax. The escutcheon appears filled up with lozans, or frette. On the chief, three palets. Above the left point, a stag's head, issuant out of an antique helmet. On the circumference, *S. Willielmi de Keith*. On the twelfth tag is, on the outer side,

Dominus Jacobus de Douglas. The escutcheon red, upon green wax, plain, and void of all figures, there being therein neither heart nor crown. On the chief, two mollets: For supporters, two savages: For crest, a tree issuant out of the helmet. In the circumference, *S. Jacobi de Douglas.* On the thirteenth tag, without, is written, *Dominus Walterus de Lesly*; and within, *Camerarius*; the seal red, upon green wax: On a bend, three buckles: No supporters nor helmets. In the circumference, *S. Walteri de Lesly.* On the fourteenth tag, without, is, *Dominus de Erskyn*; within, *Dominus Archebaldus de Douglas.* On the tag, a seal red, upon green wax: In the escutcheon, a pale. For crest, a griffin issuant out of an antique helmet. On the circumference, *S. Roberti de Erskyn, Domini ejusdem.* On the fifteenth tag, without, is written, *Dominus Alexander de Lyndesay*; and within, *Dominus Jacobus de Douglas.* The seal appended thereto, red upon green wax, a fesse chequee de trois traits. In chief, on the sinister, a star, for distinction: Supporters, two lions: Crest, an ostrich head and neck, issuant out of a round helmet. On the circumference, *S. Alexandri de Lyndesay.* On the outward side of the sixteenth tag is written, *Dominus Walterus de Haliburton*: On the inner side there is no writ. The seal appended thereto, red upon green wax. In the escutcheon, on a bend azure, three lozanges or mackles, empty'd in the middle. No crest nor supporters. On the circumference, *S. Walteri de Haliburton.* On the outward side of the seventeenth tag is written, *Dominus Willielmus de Conynghame*; and on the inner side, *Constabularius*: No seal. On the eighteenth tag there is written on the outward side, *Dominus J. de Danielston*; and on the inner side, *Comes de Moravia*, scarce legible: No seal affixed thereto. On the nineteenth tag, without, is written, *Dominus H. de Eglintone.* There is nothing written on the inner side, nor no seal appended to the tag.

In the third row, on the first tag, is written, *S. Crucis*, without: Nothing is written within. The seal, Christ on the Cross, with his shift; on his left, St. John; on his right the Virgin Mary. Under, an abbot shaved, with his chappe, *cum cappa*, praying

on his knees, bare-headed ; the crosier before him ; behind a fleur de lis. Above the niche, two persons defaced, wanting the heads. In the circumference, *Sigillum ab. S. Crucis de Edinburgh*. On the second tag, *Calchow* ; no writ on the other side, within, nor seal at the tag. On the third, *Jedworth*, without ; and within, *Comes de Douglas* : No seal. On the fourth, *Kylwynnen*, on the outward side ; nothing written within : No seal. On the fifth, *Cambuskeneth*, on the outward side ; on the inner side, *Comes de Levenax* : No seal. On the sixth, without there is *de Cupro* ; within *Dominus Willielmus de Keith* : No seal. On the seventh, without, is *Lundoris* : No seal. Nothing written on the inner side. On the eighth tag is written, *Neubottle* ; What's in the inner side is not legible. The seal appended to the tag is oblong, red upon white wax. In a niche, an abbot's staff, or crosier, with a veil, or drapeau, attached thereto. In the circumference, *S. Roberti Abbatis de Newbotil*. On the ninth is *Dryburgh*, on the outward side ; and on the inner side, *Comes de Menteth* : No seal. The tenth tag wants. On the eleventh tag is written, outwardly, *Dominus Jacobus Frazer* ; inwardly, *Kylwinning* : On the tag a seal of red wax. In the escutcheon, a fesse chequee de trois traits, betwixt six frazes, three in chief, and two and one in the base : for crest, a dog's head mantled, issuant out of a helmet, his tongue apparent, or langu'd. In the circumference, *S. Jacobi de Frazer*. On the twelfth tag, the outward side hath *Dominus Alexander Senescall* ; and the inner side, *Dominus Rob. de Erskyne* : No Seal. On the thirteenth, *Dominus Alanus Senescal*, without ; and within, *Cambuskenel* : No seal. The fourteenth wants. The fifteenth hath *Dominus David, filius Walteri*, written on the outer side ; what's on the inner side is not legible. On the tag, a seal, red upon green wax ; three cinque-fueilles, two and one. No crest nor supporters. In the circumference, *Sigillum David filii Walteri*.* On the out-

* The 73d charter of the first roll, is granted by King Robert the Bruce, *Waltero filio Gilberti, de toto tenemento de Machan, quod fuit quondam Johannis Cumyn, militis, cum pertinentiis, in valle de Clude. Tenend. et Habend. prae-*

ward side of the sixteenth tag, is written, *Dominus Patricius de Heburne* : there is no writ on the inner side. In the shield, on a cheveron, a rose betwixt two lions combatans, within a bordure engral'd. On the circumference of the seal, *S. Patricii de Heburne*. On the seventeenth tag, on the outward part, *Dominus Willielmus de Danielston* ; nothing written within. The seal appended to the tag, red upon green wax. The escutcheon, on a bend, three mackles. For crest, a pot of fire, the flame coming out of the top, above the helmet. On the circumference, *S. Willielmi de Danielston*. The eighteenth tag hath no writ, neither on the outer side nor the inner. On the seal, which is red upon green wax, a lion rampant. On the last tag is written, *Dominus Frazer*, on the outward side ; and nothing on the inner, and hath no seal.

On the back of the manifesto is written, *Declaratio Parliamenti, ubi Johannes Primogenitus Roberti, habet succedere in Regno*.

No. II.

This Number refers to p. 41.'

KINFAWNS lieth two miles by-east St. Johnston, on the north side of Tay. It belonged formerly to Hugh, brother to

dicto Waltero et haeredibus suis, inter ipsum et Mariam de Gordun, sponsam suam, legitime procreatis. *Faciendo nobis et haeredibus nostris, dictus Walterus et haeredes sui praedicti, servitium inde debitum et consuetum tempore bonae memoriae Domini Alexandri, Regis Scotorum, praedecessoris nostri ultimo defuncti.* Whereby 'tis clear, that this Walter, son of Gilbert, and father to David, ancestor to his Grace the Duke of Hamilton, was married to Mary Gordon, not to Isabel daughter to William, Earl of Ross : neither had the Earl of Ross a daughter of that name, or any more than two, Euphame and Jean ; the eldest, named Euphame, was first married to Walter Lesly, and afterwards to Alexander, Earl of Buchan, Lord Badenoch ; to whom she disposed the Earldom of Ross, the Lordship of Sky, Lewis, and other lands mentioned in the 8th roll. Carta 20, 21,

William Earl of Ross ; as appears by the following charter granted by K. Robert II. Nu. 7, Rot. 4. Robertus—Omnibus—Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto consanguineo nostro Hugoni de Ross de Kynfawns, pro suo fideli servitio nobis impenso et impendendo, illum annum redditum decem librarum Sterlingor. et quatuor celdrarum frumenti, nobis debit. sive exeunt. de terra de Doun ; cum pertinent. infra Vicecomitat. de Bamff. *Tenend. et Habend.* dicto Hugoni et Margaretæ sponsæ suæ, et eorum alteri diutius viventi, et hæredibus dicti Hugonis, de nobis et hæredibus nostris, in feodo et hæreditate—libere et quiete, plenarie, integre et honorifice, bene et in pace—In cujus rei testimonium, praesenti Cartæ nostræ, nostrum praecepimus apponi Sigillum. Testibus—Apud Methfen, primo die Junii, Anno Regni nostri, octavo.

Some few years thereafter, these lands were divided into two parts ; the one lying towards the East was given to James Stuart, natural son to King Robert II., begotten upon Marion Cardnay, as I have noticed p. 41, with a considerable pension, to be levied yearly out of the barony of Abirnethy in Perthshire ; as is evident from the 17th charter of the 2d roll, as follows :

REX—Omnibus—Sciatis nos dedisse—dilecto filio nostro Jacobo Senescalli, pensionem illius annui redditus sexdecim librarum Sterlingor. nobis debit. de baronia de Abirnethy, infra Vicecomitatum de Perth. Qui quidem redditus est in manibus Margaretæ Comitissæ de Angus, pro toto tempore vitæ suæ. *Tenend. et Habend.* dicto Jacobo, et hæredibus suis de corpore suo legitime procreandis ; quibus forte deficientibus, dilecto filio nostro Johanni Seneschalli, fratri dicti Jacobi uterino, et hæredibus suis de corpore suo legitime procreandis ; de nobis et hæredibus nostris, in feodo et hæreditate, libere et quiete—In cujus rei testimonium—Testibus—Apud Dumbretane, vicesimo-quinto die Decembris, Anno Regni nostri, secundo.

25, et 26, she is designed, filia et hæres Willielmi quondam Comitis de Ross, Carta 26. Which shows, that her sister Jean either was never married to Philorth, or had no children, nor share in her father's estate.

The superiority of the other part, which lieth towards the West, fell to Euphame Ross, daughter and only heir to William, Earl of Ross: Upon whose resignation, it was bestowed upon Walter Stuart, son undoubtedly to Alexander, Earl of Buchan and Ross, Lord Badenoch, her husband, who was a younger son to Robert II., begotten upon Elizabeth More; as is clear from the 27th charter of the 8th roll of King Robert II. which followeth:—

ROBERTUS—Omnibus—Sciatis nos dedisse—dilecto nepoti nostro Waltero Senescalli, militi, superioritatem, sive superius dominium, terrarum partis occidentalis de Kynfawns, infra Vicecomitatum de Perth, quae, sive quod fuit dilectae consanguineae nostrae Eufamiae Dominae de Ross, filiae et haeredis quondam Willielmi Comitis de Ross; et quam, sive quod eadem Eufamia, in sua legitima viduitate, nobis sursum reddidit, pureque et simpliciter resignavit, ac totum jus et clameum quae in dicta superioritate, sive superiori dominio, habuit vel habere potuit, pro se et haeredibus suis, omnino quietum clamavit in perpetuum. *Tenend. et Habend.* dicto Waltero, haeredibus suis et suis assignatis, de nobis et haeredibus nostris, in feodo et haereditate; per omnes rectas metas et divisas suas; cum omnibus et singulis libertat. commoditat. aysiamentis, et justis pertinentiis suis quibuscunque, ad dictam superioritatem, sive superius dominium spectant. seu quomodo juste spectare valentibus in futurum; adeo libere—sicut dicta Eufamia, vel pater suus praedictus, vel aliquis praedecessorum suorum, dictam superioritatem, sive superius dominium, aliquo tempore, liberius, quietius, juste tenuerunt seu possiderunt. Faciendo inde servitia debita et consueta. In cujus rei testimonium—Testibus—Apud Kylwynnen, vicesimo-quarto die Aprilis. Anno Regni nostri duodecimo.

These two parts of Kinfawns were, in process of time, joined into one body, or barony: From whence Sir George Hay, Earl of Kinnoul and Lord High Chancellor of Scotland, took his title and designation, before he was advanced to the degree of Viscount of Duplin; as may be seen by the following proxy, kept amongst the public records.

JACOBUS, Dei Gratiâ, Magnae Britanniae, Franciae et Hyberniae Rex, fidei Defensor; Omnibus probis hominibus suis ad quos praesentes litterae pervenerint, Salutem. Sciatis quod suscepimus Reverend. in Christo Patrem, Georgium Orcadum Episcopum—vel eorum aliquos vel aliquem, Actornatos vel Actornatum praedicti nostri Cancellarii, Domini Georgii Hay de Kinfawns, militis, nostri magni Cancellarii, in omnibus negotiis et loquelis, placitis et quaerelis, motis seu movendis, ipsum Dominum Georgium Hay tangent. seu tangere valent. quibuscunque diebus et locis, contra quoscunque, et coram quibuscunque. Quare praecipimus et mandamus, quatenus dictum Reverend. in Christo patrem Georgium Orcadum Episcopum—vel eorum aliquos vel aliquem, quos vel quem praesentes vel praesentem esse contigerit, tanquam Actor-natos vel Actornatum dicti nostri Cancellarii, in praemissis recipiatis, praesentibus post annum minime valituris. In cujus rei testimonium, has litteras nostras sibi fieri fecimus patentes. Apud Edinburgh, vicesimo-quarto die mensis Septembris, Anno Regni nostri 58 et 22, 1624. The seal, green wax, on a tag of parchment; on one side, a duke's crown, above the extremity of the escutcheon; on the other side, a man on the ground, armed with a naked sword in his right hand. I take this seal to be a particular seal for this business. This eminent chancellor died in 1635, and was succeeded in his office by John Spotiswood, Archbishop of St. Andrews and Primate of Scotland, brother to James, Lord Bishop of Clogher in Ireland, my great grandfather, who was named Archbishop of Cashal, after the death of Malcolm Hamilton. His son Sir Henry married Dame Jean Bulkly, daughter to Sir Trustram Bulkly of Castlebornhill, in the Isle of Anglesey, and niece to the Viscountess of Valencia, who bore Jean Lady Roslin, my mother, and several other brave children, who served King Charles I. with great reputation during the late troubles.

No. III.

This Number refers to P. 52.

THE Abbey of the Holy Cross, close adjoining Edinburgh, was founded by King David, son to Malcolm Canmore, Anno 1128, for canons regular of St. Augustine; according to the chronicle of Melrose, and the *Chronicon Sanctae Crucis*, in the first vol. of *Anglia Sacra*, p. 160, in the very place where the Saint, hunting on Holy Rood-day, commonly called, The exaltation of the Holy Cross,* or the 14th of September, was struck to the ground by a wild deer running towards him in a speedy and full course. During those misfortunes, 'tis said, that a cross slipt miraculously from the tynes of the stag into his hands; on the sight whereof, the deer immediately marched off. No man could ever know of what metal or wood the cross was made. Here it was kept most carefully, till King David Bruce carried it along with him to England, where it was taken at the field of Durham, the 17th of October 1346, with the King, and several Bishops and Earls, by Ralph, Lord Nevill, and John Nevill his son; and offered to the

* This feast is supposed, by the Roman breviaries, to have been established upon a private account, which fell out to Heraclius, successor to Phocas, after the defeat of Oosroes, King of Persia: Yet it is certain, that both the Greek and Latin Churches kept that festival in memory of the Cross that appeared to Constantine, long before Heraclius. The author of the life of Eutichius, Patriarch of Constantinople, C. 50, says, That being recalled from his exile by the Emperors Justin and Tyber, he went to a monastery in Passingby, postquam salutiferae etiam Crucis memoriam, die 14 mensis Septem. splendide celebravimus, Monasterio benedixit. Leontius Bishop of Neapolis in the Isle of Cyprus, speaks of this feast in the Life of St. Simeon, surnamed Salus; apud Surium, die 5 Julii, C. 5, tempore Justiniani Imperat. cum accederent ii qui Christi erant amantes, et pro morte Christi sancta loca cupiebant adorare quae sunt in sancta Civitate, in exaltatione pretiosae et vivificae Crucis. So it is probable that Constantine, who consecrated the Fridays to the Memory of the Cross, established also the feast of the exaltation of the Cross. Vide Euseb. in vita Constant. l. 3, cap. 49, et l. 4. cap. 18.

shrine of St. Cuthbert, with the B. V. Mary and St. John the Apostle, of pure and massy gold, on the foot, or the pedestal, which was garnished all about with rich and large diamonds, precious rubies, fine turquoises, and costly emeralds, and placed on the pillar near St. Cuthbert, in the south alley of the cathedral.

The original charter of the foundation, produced by John Leith, Abbot of Holyroodhouse, was confirmed by King Robert III., and is transcribed in the 9th roll of our records ; which is the first roll of that Prince's, with this title.

CARTA CONFIRMATIONIS PRO MONASTERIO S. CRUCIS DE EDINBURGH, DE DIVERSIS TERRIS ET ECCLESIIS, DATIS ET CONCESSIS EIDEM MONASTERIO ET CANONICIS, PER DAVID QUONDAM REGEM SCOTORUM, FILIUM S. MARGARETAE, ET FUNDATOREM DICTI MONASTERII.

ROBERTUS, Dei Gratia, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, Clericis et Laicis, Salutem. *Sciatis* quod inspeximus quandam cartam confirmationis, recolendae memoriae quondam Domini David Bruys, Regis Scotorum illustris ; non rasam, non abolitam, non cancellatam, nec in aliqua sui parte vitiatam, formam quae sequitur, de verbo in verbum, continentem : DAVID, Dei gratia, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, Clericis et Laicis, Salutem, *Sciatis* nos inspexisse, ac veraciter intellexisse cartam confirmationis clarae memoriae Domini Patris nostri ; non abolitam, non cancellatam, nec in aliqua sui parte vitiatam, in haec verba : ROBERTUS, Dei gratia, Rex Scotorum ; Omnibus probis hominibus totius terrae suae, tam Clericis quam Laicis, Salutem. *Sciatis* nos coram Concilio nostro diligenter inspexisse, ac veraciter intellexisse cartam bonae memoriae Domini David, Regis Scotorum illustris, praedecessoris nostri, factam religiosis viris Abbati et Canon. Regularibus Ecclesiae Sanctae Crucis de Edinburgh ; non abolitam, non cancellatam, nec in aliqua sui parte vitiatam, sed vero Sigillo Domini David Regis signatam, in haec verba : *In nomine Domini nostri Jesu Christi,*

et in honore Sanctae Crucis, et Sanctae Mariae Virginis, omniumque Sanctorum; Ego David. Dei gratia, Rex Scotorum, regali auctoritate, assensu Henrici filii mei, et Episcoporum Regni mei, Comitum quoque Baronumque confirmatione et testimonio, Clero etiam acquiescente et Populo, divino instinctu omnia subscripta concedo Ecclesiae Sanctae Crucis de Edwynesburg, et pace perpetua confirmo. Haec itaque sunt 'quae Ecclesiae praefatae, et Canonicis Regularibus in eadem Deo servientibus, in liberam et perpetuam eleemosynam concedimus; Ecclesiam sciz. Castelli, cum omnibus appendiciis et rectitudinibus suis, et examen duelli, aquae et ferri calidi,* quantum ad Ecclesiasticam dignitatem pertinet; et cum *Salectuna*. per suas rectas divisas; et Ecclesiam Sancti Cuthberti, cum parochia, et omnibus rebus quae eidem Ecclesiae pertinent; et cum Kirketoune, per rectas divisas suas, et cum terra in qua ipsa Ecclesia sita est, et cum alia terra quae sub Castello jacet, viz. a fonte qui oritur juxta angulum gardini mei, per viam qua itur ad Ecclesiam Sancti Cuthberti, et ex alia parte, sub Castello, usquequo pervenitur ad unam Craggam, quae est sub eodem Castello versus orientem; et cum duabus capellis, quae ad eandem Ecclesiam Sancti Cuthberti pertinent, scilicet, Crostorfyne, cum duabus bovatis terrae et sex acris; et illa capella de Libertoune, cum duabus bovatis terrae; et cum omnibus decimis et rectitudinibus, tam de vivis quam de mortuis, de Legbernard, quas Machbet vere eidem Ecclesiae dedit, et ego concessi; et Ecclesiam de Hereth, cum terra quae ad eandem Ecclesiam pertinet; et cum tota terra quam ego ei augmentavi et dedi, sicut ministri mei et probi homines perambulaverunt, et tradiderunt Alkwyno Abbati; cum una salina in Hereth, et viginti sex acris terrae. Quam Ecclesiam et terram praenominatam, volo ut Canonici Sanctae Crucis teneant et possideant in perpetuum, libere et quiete. Et prohibeo firmiter, ne aliquis Canonicos, sive homines eorum qui in eadem terra manent, injuste gravent aut disturbent; neque aliquas operationes, sive auxilia, sive consuetudines seculares, injuste ab eis

* Henry III. of England, changed the unnatural and long-continued, ancient Trials in Criminal Causes, by Fire and Water, into other punishments, viz. Imprisonments or Banishments, An. Regni 3; Prynn, P. 48.

exigant. Volo etiam, ut iidem Canonici habeant libertatem Molendini faciend. in eadem terra; et ut habeant in Hereth omnes consuetudines illas, et rectitudines, et aysiamenta, videlicet in aquis et piscationibus, in pratis et pascuis, et in omnibus aliis necessariis rebus, sicut melius habuer. die illo quo illam habui in meo dominio. Et *Broctimam*, cum rectis divisis; et *Innyrlyth* illam quae vicinior est portui, cum rectis divisis suis, et cum ipso portu, et cum medietate piscationis, et cum tota decima totius piscationis quae ad Ecclesiam Sancti Cuthberti pertinet. Et *Petendreiam*, cum suis rectis divisis; et *Hamere*, et *Fordame*, cum suis rectis divisis; et hospitale, cum una carrucata terrae, et quadraginta solidos de meo burgo de Edwynesburg, singulis annis; et redditum centum solidorum, singulis annis, ad indumenta Canonikorū, de cano meo de Perth, et hoc de primis navibus quae negotiationis causa veniunt ad Perth; et si forte non venerint, concedo praefatae Ecclesiae, de meo redditu de Edwynesburg, quadraginta solidos, et de Stryvelyne, viginti solidos, et de Perth, quadraginta solidos; et unum toftum in Stryvelyne, et tractum unius retis ad piscandum; et unum toftum in burgo meo de Edwynesburg, liberum et quietum ab omni consuetudine et exactione; et unum toftum in Berwyc, et tractum duorum retium in Scypwel; et unum toftum in Renyfry, quinque perticatarum; et tractum unius retis ad salmones, et ibi piscari ad allecia, libere. Et prohibeo ne aliquis inde a vobis, sive ab hominibus vestris, aliquas consuetudines exigat. Concedo etiam praefatis Canonicis, de Camera mea, singulis annis, decem libras ad luminaria Ecclesiae, et ad operationes ejusdem Ecclesiae, et ad reparationem earundem operationum, in perpetuum. Praecipio etiam omnibus ministris meis, et forrestariis de Stryvelynesyre et de Clacmannan, quod Abbas et Conventus habeant liberam potestatem in omnibus nemoribus meis et forestis, capiendi tantum de materia, quantum eis placuerit, et voluerint ad aedificationem Ecclesiae suae et domorum suarum, et ad quaelibet negotia sua facienda. Et praecipio quod homines eorum, qui ad eorum negotia in eisdem nemoribus materiam capiunt, meam firmam pacem habeant, et ita, quod non permittatis quod in aliquo disturbentur. Et porcos dominicos supradictae Ecclesiae, in omnibus nemoribus

meis concedo esse quietos de padnagio. Concedo etiam praefatis Canonicis, medietatem sepii, et uncti, et coriorum de occisa de Edwynesburg; et decimam de omnibus cetis et marinis belluis, quae mihi eveniunt ab Avyne usque ad Colbrandespade; et decimam omnium placitorum meorum et lucrorum, ab Avyne usque ad Colbrandespade; et medietatem meae decimae de meo cano, et de meis placitis et lucris de Kentyre et de Erregyl; et omnes pelles arietinas, et ovinas, et agninas de Castello, et de Linlythqu, quae moriuntur de meo dominio; et octo celdras de brasio, et octo de farina, et triginta carratas de Busche de Libyrtoune, et unum de Molendinis meis de Dene, et decimam Molendini de Libyrtoune et de Dene, et novi Molendini de Edwynesburgh, et de Craggenemars quantum inde habeo in meo dominio, et quantum Vineth Albus eis de eodem craggo in eleemosynam dedit. Concedo etiam eis *Herbergare*, quoddam burgum inter eandem Ecclesiam et meum burgum. Et concedo ut burgenses eorum habeant communionem vendendi res suas venales, et emendi in foro meo, libere, et absque calumpnia et consuetudine, sicut mei proprii burgen. Et prohibeo ne aliquis in burgo eorum panem, aut pannum, vel cervisiam, aut aliquid venale capiat per vim, aut sine voluntate burgen. Concedo etiam, Canonicos esse quietos de theloneo, et de omni consuetudine, in omnibus burgis meis, et per totam terram meam, scilicet, de omnibus rebus quas ement vel vendent. Et prohibeo ne quis capiat pandum super terram Sanctae crucis, nisi Abbas ejusdem loci rectum et jus facere recusaverit. Volo autem, ut omnia praescripta ita liberaliter et quiete teneant, sicut ego meas proprias terras possideo. Et volo, ut Abbas curiam suam ita libere, et plenarie, et honorifice habeat, sicut Episcopus Sancti Andreae, et Abbas de Dumfermelyne, et Abbas de Kelcou, curias suas habent. *Hiis Testibus*, Roberto Episcopo Sancti Andreae, Johanne Episcopo Glasguensi, Henrico filio meo, Wilhelmo nepote meo, Edwardo Cancellario, Hereberto Camerario, Gillimichael Comite, Cospatricio fratre Dolfyni, Rodberto de Monte Acuto, Rodberto de Burnevile, Petro de Bruys, Norman Vicecomite, Oggii, Leisyng, Gillise, Williel. de Grame, Turstano de Crectune, Blemo Archidiacono, Aelfrino Capellano, Walerano Capellano. QUAM quidem cartam, in omnibus et per omnia, pro

salute animae nostrae, et animarum omnium anteces. et successorum nostrorum, Regum Scotiae, Approbamus, Ratificamus, et praesenti Carta nostra, Confirmamus. Mandamus et firmiter praecipimus Justiciariis, Vicecomitibus, Praepositis, et eorum Ballivis, ad quorum notitiam praesentis Cartae inspectio pervenerit, Quod Abbatem et Canonicos supradictos, contra tenorem cartae supradictae, et Confirmationis nostrae Regiae concessionem, nullatenus gravare seu molestari praesumant injuste, super nostram plenariam forisfacturam. In cujus rei testimonium, praesenti cartae nostrae, Sigillum nostrum praecepimus apponi. *Testibus* venerabilibus in Christo patribus, Willielmo Sancti Andreae, et Willielmo Dunkelden. Dei gratia, Episcopis; Bernardo Abbate de Abyrbrothock, Cancellario nostro; Thoma Ranulphi, Comite Moraviae, Domino Vallis Annandiae et Manniae; Waltero Senescallo Scotiae; Jacobo Domino de Douglas; Johanne de Menyteth; Gilberto de Haya, Constabulario Scotiae; Roberto de Keth, Marescallo Scotiae, et Alexandro de Seton, militibus; et multis aliis. *Nos* vero jura et libertates praedicti Monasterii, in omnibus conservare volentes illibatas, ac beneficia, per praedecessores nostros Reges Scotiae, Deo et Ecclesiae oblata, augmentare cupientes, jugibus gratiarum incrementis, praedictam cartam Confirmationis Domini Patris nostri, in omnibus punctis, articulis, conditionibus et circumstantiis suis quibuscunque, forma et effectum Approbamus, Ratificamus, et pro nobis et haeredibus nostris, eisdem Abbati et Conventui, et eorum successoribus, in perpetuum Confirmamus, Et volumus, quod omnes terras suas praedictas habeant, teneant et possideant, in liberam Regalitem, cum plena administratione ejusdem Regalitatis, in omnibus et per omnia; adeo libere et quiete, sicut aliqua Regalitas in Regno nostro tenetur seu possidetur per quoscunque. Volumus etiam, quod dicti Abbas et Conventus habeant et possideant Cappellaniam Capellae nostrae, ita quod Abbas dicti Monasterii qui pro tempore fuerit, sit Capellanus noster principalis, et unum Concanonicum suum substituat in nostra Capella, loco sui; qui oblationes, obventiones, et omnia alia quae de jure aut consuetudine ad nostram Capellam spectant, integre percipiat. In cujus rei testimonium, praesenti cartae nostrae, Sigillum nostrum praecepimus apponi. *Testibus*, venerabili in Christo patre Domino Willielmo, Dei gra-

tia, Episcopo Sancti Andreae; Roberto Senescallo, nepote nostro; Duncano Comite de Fyfe; Johanne Ranulphi, Comite Moraviae, Domino Vallis Anandiae et Manniae; Patricio de Dunbar, Comite Marchiae; Mauricio de Moravia, Malcolmo Flemyng, et Thoma de Carnoto, Cancellario nostro, militibus. Apud Monasterium de Dumfermelyne, penultimo die Decembris, Anno Regni nostri, quarto-decimo. Quam quidem cartam, in omnibus punctis et articulis suis, ac circumstantiis universis, forma pariter et effectum praescriptis, pro nobis et haeredibus nostris, Approbamus, Ratificamus, et in perpetuum Confirmamus. In cujus rei testimonium, praesenti Cartae nostrae confirmationis, nostrum praecepimus apponi Sigillum. Testibus Venerab. in Christo Patribus, Waltero et Mattheo, Sancti Andreae et Glasguen. Ecclesiarum Episcopis; Roberto Comite de Fife et de Meneteth, fratre nostro carissimo; Archibaldo Comite de Douglas, Domino Galwidiæ, consanguineo nostro; Jacobo de Douglas, Domino de Dalketh; Thoma de Erskyne, consanguineis nostris dilectis, militibus; et Alexandro de Cokburne de Langton, Custode Magni Sigilli nostri. Apud Edinburgum, quinto die Aprilis, Anno Regni nostri, primo.

The most part of this building was defaced and levelled to the ground, by the armies of Henry VIII. after the Raid of Solway Moss. At which time the Baptismal Fonts, (a curious work of gilded brass) on which our Kings' children were christened, were carried from hence to England, and placed in St. Alban's Church, with the following Inscription: *Cum Letha, oppidum apud Scotos non incelebre, et Edinburgus, primaria apud eos civitas, incendio conflagrarent, Richardus Laeus, Eques auratus, me, flammis ereptum, ad Anglos perduxit. Hujus ego beneficii memor, non nisi Regum liberos lavare solitus, nunc meam operam etiam infimis Anglorum libenter condixi. Laeus victor sic voluit. Vale. Anno Domini 1544, et Henrici VIII. 36.*

Those Fonts, called the 'Brazen Font,' by Boethius' Translator, were brought from abroad by Robert Ballantine, Abbot of this Monastery, a man eminent for his holiness; together with 24 copes of gold or silk, a chalice and euchariste of fine gold, several chalices of silver, with the great bells. He thatched the kirk of

his Abbey with lead, says the said translator, built the steeple of the North Church, or St. Ninian's Church, and Bridge of Leith, 1493, also another bridge on Clyde; and bestowed weekly four bolls of wheat, and forty shillings in money, on the poor and indigent. At length he died a Carthusian, near Perth, in that monastery called *Vallis virtutis*. The last regular abbot of this place was Robert Stuart, base son to King James V. by Euphame, daughter to the Lord Elphinston. After the forfeiture of Hepburn Earl of Bothwell, he was created Earl of Orkney and Zetland, by King James VI. Anno 1581. He exchanged his Abbey with the Bishoprick of Orkney and Zetland, and so became sole lord of these countries: By which means Adam Bothwell, Bishop of Orkney, became also Commendator of Holyroodhouse, and enjoyed it for several years. He married Margaret Murray, a daughter of Polmais, in Stirlingshire, who bore John, Francis, James, George, and a daughter named Helene. John Bothwell succeeded his father in 1593, and was created a Peer by King James VI., the 20th of December 1607, to be called Lord Holyroodhouse. He took to wife Mary, daughter to Sir John Carmichael of that ilk, by whom he had a son named John, who succeeded to his honours and fortune; but he dying without issue and heirs, the title of Lord Holyroodhouse became extinct.

No. IV.

This Number refers to Page 60.

STRATHERNE in Perthshire, where the frost is strong, and continues long, is mentioned by Juvenal, Satyr. 2. v. 159.

“ ——— Arma quidem ultra
Littora Jubernae promovimus, et modo captas
Orcadas, ac minima contentos nocte Britannos.”

and by Claudian, Panegy. 2. *in laudes Stiliconis*.

“ Me quoque vicinis pereuntem gentibus, inquit,
Munivit Stilico, totam cum Scotus Iernam
Movit, et infesto spumavit remige Tethys.”

Which verses, with the other verse of the said poet, Carm. 8.

“ Scotorum cumulos flevit glacialis Iernae,”

cannot be applied to any other part of this world, than to Stratherne ; as I have shewn elsewhere, in my answer to Matthew Kennedy.

Buchanan calls this stewartry Iernia, from the Water of Earn, which takes its head from Loch Earn, towards the Grampian Hills, divides the country, and falleth into Tay below Abernethy, the royal seat of the Picts, if we may give credit to our histories. Robert, Steward of Scotland, thereafter Robert II., was created Earl of Stratherne, by his uncle King David II., Anno 1357, as appears by the two following charters, granted to the lairds of Caldore and Roslin, which I have transcribed from the originals, in their charter-chests :—

“ David, Dei Gratiâ, Rex Scotorum ; Omnibus—Sciatis nos approbasse, ratificasse, et pro nobis et haeredibus nostris in perpetuum confirmasse, donationem et concessionem illam, quam quondam Duncanus Comes de Fyfe, fecit et concessit quondam Beatriçi de Douglas, sponsae quondam Archibaldi de Douglas, militis, et haeredibus suis, de Baronia de Wester-Caldore, cum pertinent. infra Vicecomitatum de Edinburgh : Et etiam donationem et concessionem illam, quam Willielmus Dominus de Douglas dedit et concessit quondam Jacobo de Sandylandis, et Eleonorae de Bruys, sponsae suae, de praedicta baronia, cum pertinentiis. *Tenend. et Habend.* eidem Eleonorae et haeredibus suis, inter ipsam et dictum quondam Jacobum procreatis de nobis et haeredibus nostris, in feodo et haereditate, per omnes—cum omnibus libert.—adeo libere—in omnibus et per omnia, sicut cartae praedicti Willielmi

Domini de Douglas, eisdem quondam Jacobo et Eleonorae sponsae suae, inde confectae, plenius juste propoant et testantur; salvo servitio nostro. In cujus rei testimonium, praesenti Cartae nostrae, sigillum nostrum praecepimus apponi. Testibus venerab. in Christo patribus, Willielmo et Patricio, Cancellario nostro, S. Andreae et Brechin. Ecclesiarum, Dei Gratiâ, Episcopis, Roberto Senescallo Scotiae, Comite de Stratherne, nepote nostro carissimo; Thoma Comite de Marr, consanguineo nostro dilecto; Willielmo de Levyngston, Willielmo de Ramisay, Roberto de Erykyn, Johanne de Preston, militibus. Apud Edinburgh, vicesimo die Januari, Anno Regni nostri, vicesimo-octavo."

"David, Dei Gratiâ, Rex Scotorum; Omnibus—Sciatis nos dedisse, concessisse, et hac praesenti Carta nostra confirmasse dilecto et fideli nostro Willielmo de Sancto Claro, omnes terras de Merton et de Merchamyston, cum pertinentiis, infra Vicecomitatum de Edinburgh; quas Willielmus Bysett, coram venerab. in Christo PP. Willielmo et Patricio, Cancellario nostro, Sancti Andreae et Brechin. Dei Gratiâ Ecclesiarum Episcopis; Thoma Bysett, Willielmo de Ramisay et David de Anandia, militibus, ac aliis Magnatibus Regni nostri. Apud Edinburgh, decimo die Februarii, Anno Dom. 1357, nobis per fustum et baculum sursum reddidit et resignavit, ac totum jus et clameum quod in dictis terris habuit, vel habere potuit in futurum, pro se et haered. suis, mera et spontanea voluntate sua, quietum clamavit in perpetuum. *Tenend. et Habend.* eidem Willielmo et haeredibus suis, de nobis et haeredibus nostris, in feodo et haereditate, per omnes rectas metas et divisas suas, in boscis et planis—adeo libere et quiete, in omnibus et per omnia, sicut dictus Willielmus Bysett, dictas terras, cum pertinent. ante resignationem de dictis terris nobis factam, liberius, quietius, plenius et honorificentius, de nobis tenuit seu possedit. *Faciendo* nobis et haeredibus nostris, ipse Willielmus et haeredes sui, servitium de praedictis terris debitum et consuetum. In cujus rei testimonium, praesenti cartae nostrae Sigillum nostrum praecepimus apponi Testibus venerab. in Christo Patribus Willielmo et Patricio, Cancellario nostro Scotiae, Sancti Andreae

et Brechin. Ecclesiarum Dei Gratia, Episcopis; Roberto, Senescallo nostro Scotiae, Comite de Stratherne; Thoma Comite de Marr, Willielmo Comité de Douglas, Willielmo de Levingston, Thoma Bysett, Willielmo de Ramisay et David de Anandia, militibus; et multis aliis. Apud Edinburgh, praedicto decimo die Februarii, praedicti anni Regni nostri, vicesimo-octavo."

When King Robert came to the Crown in 1371, he bestowed this earldom upon David, his eldest son by Euphame Ross, his second wife, whose only daughter Euphame was given in marriage to Patrick Graham, who, in her right, became Earl of Stratherne. Their son Malyse was also Earl thereof, till such time as King James I., busied with the thoughts of increasing his revenues, quarrelled his right, notwithstanding that the title had been given to his grandfather, and his heirs whatsoever; as is clear from the evidences and writings granted by King Robert to Earl David, his son, pages 59 and 60. Yet William Earl of Monteith, President of his Majesty's Council, was served and retoured heir to David Earl of Stratherne, his ancestor, *in Curia Vicecomitatus de Edinburgh, tenta in praetorio burgi ejusdem, coram Domino Ludovico Lawedre de Over-Gogar, milite, Vicecomite principali dicti Vicecomitatus, specialiter constituto, vicesimo quinto die mensis Maii, Anno Dom. 1630, virtute dispensationis, ex deliberatione Dominorum Concilii, penes praesens vacantiarum tempus concess.* and by the Prince's exceeding favour, was restored to his descent, and to the Earldom of Stratherne; which gave way to William Drummond of Hawthornden to fill up his *Memorials of State* with a great deal of stuff and nonsense, page 351, impress. London, 1681.

No. V.

This Number refers to Page 134.

OUR Kings were set on the throne, and crowned with a great deal of pomp and solemnity very early; nevertheless they were not anointed with oil till the 1331; in which year my manuscript, *Codex Hayanus*, l. 27, cap. 9, says, *Anno Domini 1331, octavo Calend. Decemb. inunctus est in Regem David puer octennis, filius Domini Roberti de Broys Regis, apud Sconam, per ministerium D. Jacobi Ben. Epis. S. Andreae, per bullam D. Johannis XXII., Romanae Ecclesiae Antistitis, de ungendero, et alia solemnia intermiscendo.*

It appears by a bull of Pope John XXII., dated at Avignon, *Idibus Junii*, or the 13th of June, *Anno Pontificatus sui decimo-tertio*, that King Robert I. was desirous to receive those unctions, which gave a preheminance or prerogative to all Christian Princes at the Court of Rome, as it was regulate under Julius II., Anno 1504; according to his ceremonial, penned by Paris de Grassis, his master of ceremonies, from whose manuscript, in my library, I shall transcribe the following Table, which ends this work.

ORDO REGUM ET DUCUM, EX PARIDE DE GRASSIS, BONONIENSI, MAGISTRO CEREMONIARUM, SUB JULIO II. PONTIFICE MAXIMO.

Ordo Regum.

Imperator Caesar
Rex Romanorum
Rex Franciae
Rex Hispaniae
Rex Arragoniae
Rex Portugalliae
Rex Angliae, discors cum tribus praedictis

Ordo Ducum.

Dux Britanniae
Dux Burgundiae
Dux Bavariae, Comes Palatinus
Dux Saxoniae
Marchio Brandenburgensis
Dux Austriae
Dux Sabaudiae

Ordo Regum.

*Rex Siciliae, discors cum Rege**Portugalliae**Rex Scotiae**Rex Hungariae**Rex Navarrae, inter se discordes**Rex Cypri**Rex Bohemiae**Rex Poloniae**Rex Daniae.*

Ordo Ducum.

*Dux Mediolanensis.**Dux Venetiarum**Dux Bavariae**Dux Lotharingiae**Dux Barthoniae**Dux Aurelianensis**Dux Januae**Dux Ferrariae**Dux Florentinae Reipublicae :*

Cujus administratio, fœdere cum Carolo V. inito, a Clemente VII. ordinata est penes Medicæos, qui absoluta potestate fruuntur, et nemini, ratione dominii, subjiciuntur ; et Magni Ducis dignitatem, Pontificis beneficio, accepere, Anno 1568.

A
DISSERTATION

CONCERNING THE MARRIAGE OF

ROBERT SENESCHAL OF SCOTLAND

WITH

ELIZABETH MORE.

BY

JOHN GORDON, ESQ. OF BUTHLAW.

TRANSLATED FROM THE ORIGINAL LATIN, PUBLISHED AT
EDINBURGH IN 1759.

A

DISSERTATION

CONCERNING THE MARRIAGE OF

ROBERT SENESCHAL OF SCOTLAND

WITH

ELIZABETH MORE.

MANY writers have remarked, how contradictory are the accounts in relation to the marriage of Robert Seneschal of Scotland, (afterwards Robert II. king of Scotland of that name,) with Elizabeth More, which have been handed down by most of our historians, on the evidence and authority of deeds and records, registered in the same age in which the marriage was acknowledged; but no person has satisfactorily explained, nor indeed all along observed, the causes which produced so great and extraordinary a disagreement. In tracing this affair, no one will imagine that it is greatly to be wondered at, that the genius and industry of learned men have, for above a century, proved ineffectual, if he will now observe, how repugnant are the accounts which these historians have related, to those preserved in charters and monuments, both public and private.

Buchanan says,* “ In the third year of her reign, died Queen Euphemia, daughter to Hugh Earl of Ross. The King had three children by her, Walter afterwards Earl of Atholl, David Earl of Strathern, and Euphemia, whom I have before mentioned to have married James Douglas. Robert, not so much from impatience of an unmarried state, as out of love for the sons he had formerly by Elizabeth, espoused her. When a youth, he had cherished a passionate love for this lady, daughter of the illustrious Sir Adam More, who was remarkable for her beauty, and had three sons and two daughters by her; and made provision to have her bestowed in marriage to Gifard, a nobleman in Lothian. But nearly about the same period, in consequence of the decease of Queen Euphemia, and Gifard, Elizabeth’s husband, the King, whether influenced by his previous intercourse with More, or, as many say, in order to legitimize the sons he had by her, married their mother; and immediately advanced the sons to riches and honours. John, the eldest, was created Earl of Carric; Robert, Earl of Menteith; Alexander, Earl of Buchan: And not satisfied with this munificence, having appointed a parliament at Scone, he carried, to the prejudice of Euphemia’s children, that, in electing a king, the gradations of age should be observed; which circumstance afterwards rendered such a numerous family almost extinct.” The same writer afterwards adds; † “ I have said that Robert II. had three sons by a concubine: although he had Walter and David, the one Earl of Atholl, the other Earl of Strathern, by his wife Euphemia, the King, however, after their mother’s death, married the concubine, in order to leave her sons heirs of the Crown, legitimated by that marriage; and when dying, left his eldest son invested with the regal dignity; the

* Hist. Scot. book ix.

† The Same, book x.

administration of the realm being awarded to the second, over and above his vast opulence, and the third appointed governor over several districts.

In this particular, although the other wife's children considered themselves wronged, being inferior, however, both in point of age and wealth, they, for the present, concealed their resentment. The demise of the Earl of Strathern, who departed this life, leaving an only daughter, also diminished their power. But Atholl, notwithstanding he was inferior in every respect to the opposite faction, omitted no effort to elevate his kinsfolk, nor gave up the hope of recovering the Crown." Such is Buchanan's account, from whom I have deemed it proper to extract this narration, not for the purpose of eliciting disapprobation of that most eminent writer, who as to this affair has transmitted as authentic, falsehoods borrowed from other writers of our history, not fabricated by himself; but, because flourishing in a later age, and being far more renowned for eloquence, he has expanded and adorned fables which had undergone no improvement since their first publication.

But the very facts and transactions put publicly and privately on record, even in those very times, and ratified by solemn instruments and writings, in which were partly involved the tranquillity and security of the whole state, partly the fortunes and dearest interests of each citizen, manifest, that the affair was far otherwise than has been reported by these authors. The superabundance of these proofs may be conveniently referred to two classes. The proofs of the one class tend to determine the period of Robert's marriage. These clearly confirm that Elizabeth was Robert's first wife, Euphemia the second ;*

* Act of Parliament, 4th April 1373, in the third year of Robert II. in the public records.

that the former died previous to the year of our Lord 1365, that is, a good many years before Robert obtained possession of the throne;* but that the latter was alive for several years after that prince began to reign.

Those which declare Euphemia surviving beyond the third year of Robert, are as follow: On the 24th day of November, in the year 1375, Queen Euphemia and David Earl Palatine of Strathern, who was her elder son, † accomplish what they designate an indenture, ‡ by forming a contract between themselves and Alexander Moray of Drumsergorth. Afterwards, in the year 1378, on the 19th day of October, but in the eighth year of the reign of Robert II., the Queen gives her consent, and affixes her seal, to a charter granted to Thomas Raite, in a full parliament, by Walter Seneschal (Euphemia's younger son); § and by his wife being heiress of the lord of the barony of Brechin, they afterwards, according to the customs of the age, obtained a sasine of that barony. ||

What are considered proofs in the other class, serve to demonstrate the right and condition of the children by Elizabeth More, and verify, that they were openly accounted legitimate, anterior to the third year of their father's reign, and were loaded with honours and riches becoming their lineage and rank. Although there exists almost an infinity of these proofs, I shall neither attempt to enumerate all the records which are often

* Charter of Robert Seneschal of Scotland, Earl of Strathern, conferred upon the church of Glasgow, in the archives of the Scottish University in Paris.

† Now quoted in Acts of Parliament.

‡ In the possession of Lord Abercairny, and exhibited in the Charters of Scotland.

§ Quoted in the above Acts of Parl.

|| The confirmation of that charter, granted by the King on the 22d day of the same month, October, is extant in the public register.

found written concerning one and the same act, nor all the acts, many of which frequently occur, bearing throughout a resemblance to each other. For in so great a multiplicity of things, since I should feel as solicitous not to prove tedious to the reader, as endeavour to convince him, I presume it will suffice, that, observing as far as possible the order of time, a few of the more remarkable arguments, and in other respects only individual instances be proposed, and confirmed by single written deeds. Therefore, in the month of September, in the year 1351, (nearly twenty years before Robert's elevation to the throne,) when David King of Scotland, who, being taken in the battle of Durham, had fallen into the hands of the English, was about to proceed to Scotland by permission of England, to institute a discussion with his friends concerning his ransom, upon condition that he would return into custody again, within a limited time, and the *heirs* of a great many earls, and of other nobility of Scotland, were promised as hostages for that purpose; *John, son and heir of the Seneschal of Scotland, is reckoned* chief of the whole of these.* He afterwards succeeded his father in the government, under the title of Robert III.; and then, in the year 1354, on the 13th day of the month of July, a treaty was assented to betwixt the Scots and English, at Newcastle,† that ninety thousand marks of English money should be paid, by equal instalments, for King David's ransom; that there should be a truce in the interim; and with respect to advancing this money, that twenty noblemen's sons (whose names were comprehended in the stipulation) should be delivered as hostages. With regard to one of these, the son and

* Rymer's Publ. Acts, vol. v. p. 724.

† The Same, p. 793.

heir of the Earl of March, they agreed to detain him only till the first payment; but when it was forwarded, that *the son and heir of the Seneschal of Scotland* should supply his place as hostage, until the next payment; after discharging which, when he was also liberated, Walter, son of the Seneschal of Scotland, (and the second son by Elizabeth,) * if then existing, or if dead, another of the Seneschal's sons, and the son and heir of the departed David Hay, Constable of Scotland, or another equally honourable, was to be given as hostages. Finally, precaution was taken, that according to the agreement of paying the money, the hostages would obtain freedom, provided that towards releasing them, proper pledges should remain, the persons of the Seneschal of Scotland's son, and of the Earl of March's son excepted. This treaty, renewed at Berwick on the 12th of November 1354, † proved however ineffectual, its accomplishment having by no means followed. ‡ At last the matter was concluded concerning David's liberation, a convention being first entered into at Westminster, by the deputies of the *Regent*, Robert Seneschal, and counsellors of Scotland, § and those of the English King, § but completed and brought to an issue at Berwick on the 3d day of October, in the year 1357. ¶ The Scots promised 100,000 marks of

* Arg. appended to the same Rymer's Publ. Acts, vol. vi. p. 46, 87, and 198.

† Rym. Publ. Acts, vol. v. p. 812.

‡ With regard to this place, I ought to refer to what Winton in his Chronicle, c. 180, and the writer of the *Scotichronicon*, book xv. chap. 15, Edinburgh edit. report, viz. that about the year 1355, *John Stewart*, son of *Gardian Lord of Kyle*, led an army against the English, and recovered the whole of *Annan* to the allegiance of the King of Scots.

§ Rym. Publ. Acts, p. 822, and vol. vi. p. 41.

§ Ibid. p. 32.

¶ Ibid. p. 46.

English money for their king's ransom, to be defrayed within ten years, by equal instalments ; a truce was agreed on during this period ; and twenty youths, the sons of earls and other nobility, were given up as hostages. In enumerating these, *John, son and heir of the Seneschal of Scotland*, is enrolled in the first place. On the 16th of August 1357, he had a safe conduct granted him by the English, under the name of *John Seneschal of the Lord of Kyle*, when about to depart for England with an equal number of earls, viz. twenty horsemen ; a similar grant was made to the Earl of March when about to proceed to England ;* and, on the same day, another safe conduct was prepared for the twenty hostages, (in which number was John himself,) with the forty earls. † Besides, in that treaty which I have spoken of, it was provided, that *John, son and heir apparent of the Seneschal of Scotland*, should be only detained till the first payment ; that after it was advanced, his next younger brother should succeed to his place ; and that he, and the Seneschal's other sons, who had acted as hostages, should enjoy the same privilege of remaining surety only till each separate payment. King David afterwards approved and had this agreement ratified, by consent of his counsellors, in a parliament held at Scone on the 6th day of November, in the year of grace 1357. ‡ Upon remitting the first portion of the money promised for the King's ransom, on the 24th day of June, in the year 1358, as had been resolved, *John, eldest son of Robert Seneschal of Scotland*, obtained his enlargement, and Robert's second son was substituted for him, § on the 13th of June 1360. The King of England, by his brevet, ordered him to be restored again, so soon as the second payment was forwarded,

* Rymer's Publ. Acts, vol. vi. p. 33.

† Ibid. p. 34.

‡ Ibid. p. 68.

§ Ibid. p. 91.

and the third son received as surety. * Walter, Robert's second son by Elizabeth, having espoused Isabella, the daughter and heiress of Duncan Earl of Fife, † attained the lordship of Fife. After his death, Robert, the younger brother, assumed the title of Lord of Fife; for on the 20th day of July 1361, he is found designated Lord of Fife. ‡ The same Robert, upon marrying the grand-daughter of Alan Earl of Menteith, § obtained possession of the lordship of Menteith, which he for some time held without the dignity of Earl. Hence, on the 14th of May 1363, he is mentioned as *Robert Seneschal of Menteith*, || and *Lord of Menteith*. ¶ Robert the father, on the 20th of July 1361, ratifying ** by his charter the donatives presented by his ancestors to the Abbey of Paisley, enrolls as witness, *John Seneschal, Lord of Kyle, his eldest son and heir*. The donation which the same adjudged to the

* Rymer's Publ. Acts, vol. vi. p. 198.

† This is manifest from an indenture betwixt Robert Seneschal Earl of Menteith, and Isabella Countess of Fife, framed at Perth on the penultimate day of March 1371, which Sir John Skene mentions in his book concerning the signification of words, under the word *Arage*; and a copy of which is preserved in a MS. volume in the Advocates' Library, Edinburgh, comprising memoirs of Lord Lewis Stewart, and of others.

‡ In a charter of Robert Seneschal of Scotland, in the chartulary of Paisley, granted on that day to the Monastery of Paisley, relating to the confirmation of his predecessors' donations.

§ The indenture now cited.

|| Charter of Robert Seneschal of Scotland, granted on that day, concerning the oath of allegiance sworn by himself to the King, in the *Scotichron.* book xiv. chap. 27, Edinburgh edition.

¶ Charter of Robert Seneschal of Scotland, presented to Robert of Erskyne and his wife, concerning the lands of Nisbet and Edinham: the words of which are preserved registered in a charter of Robert II., granted to the same in a full parliament held at Scone, on the 3d day of April, in the third year of his reign, upon the score of hospitality, as they say, in reference to old Aberdeen, in the Aberdeen chartulary.

** Above cited.

church of Glasgow, on the 12th of January 1364,* for the purpose of endowing a chapel, is confirmed both by his own, and the seal of *John Seneschal, Lord of Kyle, his eldest son and heir*. At length the same Robert, and *John Seneschal*, his eldest son and heir, Lord of the barony of Kyle, transfer for a consideration the monastery of Paisley, into the number of the lands and tenements of William More, knight, by their charter written concerning that affair. †

In a parliament held at Scone on the 22d of June 1368, King David, with consent of the three Estates of the Kingdom, confirms in writing the Earldom of Carric to *John Seneschal, eldest son of Robert Seneschal of Scotland*, and his wife Anabella, and their lawfully begotten heirs. ‡ *John Seneschal Earl of Carric*, was among the Scottish King's Ambassadors, who at London, in the month of June A. D. 1369, effected a truce of fourteen years with the English. § Robert Seneschal of Scotland, with consent of *his eldest son and heir, John Seneschal, Earl of Carric*, confirms by his own and his son's signets, the *property* of Whitslade, with the *casualties* and *services* due to him from several other lands, bestowed upon Alan of Lauder. || In the year 1370, on the 17th day of September, King David yields the barony of Methven to his grandson, Robert Seneschal of Scotland (born of his sister), and to his spouse Euphemia, taking, along with other witnesses, *John, his grand-*

* Charter above quoted.

† In the chartulary of Paisley.

‡ Autograph, in the public records.

§ These rhymes are published by Rymer, in the Appendix to his first letter to the Bishop of Carlisle, p. 20.

|| That charter, confirmed by Robert II. on the 13th June, in the first year of his reign, is extant in the public register.

son's eldest son, *Earl of Carric*.* In a parliament holden at Perth, when the same King, with consent of *his grandson, Robert Seneschal of Scotland, and his children*, as also of the three Estates of the Kingdom, grants to the bishops of Scotland the right of possessing the power to frame a will, and choose an heir of the moveables, as well by being testate as intestate, he constitutes the Seneschal of Scotland, and *John Seneschal, Earl of Carric, his eldest son and heir*, as witnesses, pre-eminent to all. † Upon David's decease, Robert, (whilst he was at Scone, during the period of his coronation,) on the 27th day of March, of the year 1371, when the prelates, earls, barons, and others of the clergy and people of his kingdom, were standing by him, after the solemnities of the anointing and coronation were concluded, and upon avowal of the prerogative, by which he himself succeeded to the crown conferred upon him, as much by proximity of blood, as by declaration of his grandsire, Robert I.; also, when according to custom, their oaths of homage and allegiance were taken, by precedent of the same Robert I., resolved to proclaim in the same place his successor and rightful heir, in presence of the clergy and people. Therefore, with the unanimous consent of the prelates, earls, nobles, and gentry, he declared his eldest son, *Lord John, Earl of Carric, and Seneschal of Scotland*, to be his only true and legitimate heir, and that the succession to the throne, after his death, belonged to the said Lord, adding that this attestation in favour of a right which was sufficiently manifest, had been made by him, *ex abundanti*, over and above what was necessary, or as a matter of course. The nobles severally gave

* The charter which Richard Hay published from an autograph in his *Vindication*, rescuing from controversy the lineal descent of Robert III. (*Vide* p. 57.)

† Charter in the public register.

their testimony to the same, orally, every one for himself. This declaration was introduced into the King's privy council, as it was discussed in the private imperial cabinet. Thence all the people, together with the clergy, being convened by the King's command in the Parliament chamber, with their unanimous desire and concurrence he approved of that declaration, propounded in public by voice of the royal clerk, in the manner it was performed. * Nor, regarding this very famous decree of the privy-council, the solemnity of the occasion, and the concourse of nobles, (who were then present in the assembly,) was the proceeding discontinued. Proclamation was afterwards made, in every parliament held in the second year of Robert's reign, the decree of the three Estates of the kingdom intervening, that, at his father's death, the crown would devolve to the same John by right of succession. † About this very period of Robert's reign, Robert, the King's son, (owing to Walter the second son's decease,) was advanced to the dignity of Earl of Menteith.‡ Thereafter, by means of Isabella the Countess of Fife's concession, § he also arrived at the possession of the Earldom of Fife; which earldom, after Isabella's demise, would fall, by right of succession, to Robert and his wife, from what they style a conscript entail,

* An autograph instrument respecting that transaction, executed by a notary public, and ratified by the seals of the king and nobility, is extant in the public archives: which by mistake, is entitled on the back, a *Declaration of Parliament*, in a different hand from the one by which the instrument itself is penned. (*vide* p. 133.)

† The Act of Parliament above cited, written on the 4th of April 1373, bears, that this declaration was made in the parliament *immediately preceding*; but the parliament which immediately preceded, must, of necessity, have been held in the second year of Robert, since it appears from the inscription of some of Robert II.'s resolutions, among the statutes of the ancient Kings of Scotland, published by Skene, fol. 59, that a parliament was held in that year, viz. on the 2d of May 1372.

‡ Acts of the Privy Council, above cited.

§ The indenture constituted betwixt him and Isabella, above cited.

as well by Isabella herself, and her departed husband, Walter, the brother of Robert, as by Duncan, Isabella's father. * He is found in possession of the new dignity of Earl of Fife, on the 8th day of April, in the second year † of the reign of Robert II.; he was thereafter denominated *Earl of Fife and of Menteith*. In addition to this, on the 5th day of February, in the second year of his reign, the King conceded to the same Robert, and the male heirs descending from him, the government of Stirling Castle, to continue in possession by feudal right. ‡ On the penultimate day of March, in the first year of his reign, he also tendered the Lordship of Badenoch to his third son, Alexander Seneschal, a cadet, and the heirs descending from him, (having substituted his son David, Earl of Strathern, in their stead, if they happened to fail.) § And, on the contrary, on the 19th day of June, in the first year of his reign, he munificently allotted the castle and barony of Urquhart to David, and the heirs descending from him; and, provided that they failed in reference to this grant, he substituted Alexander. || On the 7th day of October, in the second year of his reign, he appointed the same Alexander to be what is termed *Regent* over the vice-earldom of Inverness (with the exception of the districts of the Earl of Moray's regality), and over all the country extending from the northern part of Moray, to the Pentland Frith. ¶ The same King, when, on the 3d day of July, in the first year of his reign, he confirmed the Earldom of Strathern, presented to his son David, ** constituted witnesses, *John, his*

* The Same.

† Charter of Robert II. granted on that day to the burgh of Irvine, in the public register.

‡ Charter of Robert II. in the public register.

§ Ibid.

|| Ibid.

¶ Ibid.

** Ibid.

eldest son, Earl of Carrick, and Seneschal of Scotland, Robert Earl of Menteith, and Alexander Seneschal, his most beloved sons. He likewise employed the same witnesses, when, on the 8th day of May, in the second year of his reign, he granted the Castle of Loch Leven to Queen Euphemia and the same David, to remain in their possession during their lifetime. * And respecting a certain concession † made by the same King to Robert Erskine and his wife, in a full parliament at Scone, on the 3d day of April, in the third year of his reign, *his eldest son, John Earl of Carric, Seneschal of Scotland, Robert Earl of Fife and of Menteith, Alexander Lord of Badenoch, and David Earl of Strathern, his most beloved sons,* were admitted witnesses in the order of their respective ages. In the same parliament, on the 4th day of the same month of April, King Robert, desiring that a doubtful succession, and the misfortunes and detriment oftentimes resulting from the succession of *females* to the throne, be provided against, ordained, with consent of the three Estates of the kingdom, that the sons he had then by his first and second wife, and only the male heirs descending of them, should be his successors to the sceptre, in the following order of succession: that the crown should devolve, after his decease, to his eldest son John, Earl of Carric, and Seneschal of Scotland, (whose right of succession had been fully declared, in the parliament immediately preceding) and the male heirs by him; after them, to Robert Earl of Fife and Menteith, his second son by the first wife, and the male heirs by him; if they likewise became extinct, to Alexander Lord of Badenoch, third son by

* Charter of Robert II. which Rich. Hay has published from an autograph in his *Vindication*, (page 58 of this volume.)

† Above quoted.

the same wife, and the male heirs by him ; next, to David Earl of Strathern, son by the second wife, and the male heirs by him ; last of all, to Walter, David's brother-german, and the male heirs by him ; but upon all these having become extinct, to rightful and legitimate heirs, descended of royal blood. The three Estates of the kingdom approved this order of succession ; and John, Robert, and Alexander, the aged monarch's elder sons, and many of the principal persons of the realm, swore that they would preserve and defend it. At length the whole multitude of the clergy and people (which had been, by reason of this, summoned to Scone Cathedral,) agreed to it, when declared to them by public intimation.* This ordinance did not so far remove Walter (who was Robert's youngest son) in relation to attaining the succession to the crown, or diminish his right in any particular, as it raised him much nearer to the hope of obtaining this, in consequence of the female issue being set aside, both of his other brothers, and of his brother-german David, which, but for this decree, would have preceded himself. And certainly, in the reign of James I. this law almost discovered to him the hope of an approaching succession, James with his infant son being then the sole survivors of all descending from his elder brothers by the male side, and who were themselves male. But when Walter, stimulated by headlong impatience to reign, preferred rather to pave a way to himself by parricide, in order to compass the succession to the throne, than await the natural events of des-

* That Act, which I have also quoted above, is an autograph extant in the public records, and secured by the seals of the King and nobles ; but some of its words having been already destroyed by being worm-eaten, a copy of the same, written many years ago, and preserved in the note-book of Lord Lewis Stewart, supplies its defects.

tiny, he was deeply intent in this affair about devising that most abandoned plot, which occasioned death to the king, destruction to himself and family, and the eternal infamy of his name with posterity. And thus by the clearest documents, and genuine demonstrations, it manifestly appears, that Elizabeth More was first wife to Robert, and that the children thence begotten, have, ever since the year 1351, been reputed legitimate by the consent of all.

From what source, then, have our historians derived their statements, so different from these? or in what way has the truth been concealed from their observation? While authors attempted to indite such things, whither had verity escaped? to what concealment had it withdrawn? or what phantom, having counterfeited its aspect and form, interposed falsehoods before their eyes? This investigation was easy and obvious; yet no person has hitherto been discovered who could sufficiently unravel these things. Narratives of the same subject exhibit such a mixture of what is authentic and spurious, as that nothing bears a mutual resemblance; on the contrary, all things are very different from and repugnant to one another. Truly, for as many as have in any shape endeavoured to disentangle this knot, the design has completely failed. Some of these* have suspected that the continuator of Fordun has abetted the side of the conspirators against James the First, and that he was perhaps the author of the fabulous tale, in which that impious assassination was defended. Others† have supposed, that the children whom Euphemia bore

* Rymer in his first letter to the Bishop of Carlisle, p. 11, and Sir James Dalrymple in the preface to his *Historical Collections*, p. 39.

† Lew. Innes, in the historical observations regarding the charter of Robert Seneschal of Scotland, published by himself.

to Robert, were begotten in adultery, and by reason of this circumstance, the stain attaching to their extraction was erroneously transferred to those brought forth by the first marriage. Thus, while they desired the one party to be vindicated from implied reproach, they themselves wounded the other with the deepest wrong. Nor have they approved themselves so much the avengers, as the authors of calumny, by rashly and injudiciously entertaining conjectures of facts which never had existence. We shall speak first concerning Robert's marriage with Elizabeth, in what way it proceeded, and how the condition of the children afterwards born remained entirely unaffected. We shall then proceed to unfold the origin and progress of the error which has obtained in the writings of different authors.

And indeed, if we have any writer of transcendent fidelity and care, a contemporary of that period, and a native of this country, who has avowedly transmitted the ceremony and the whole circumstances of that marriage; I imagine there will be no person but will most readily confess, that he ought, without the slightest hesitation, to be credited. And such a one have we in Fordun, an author of the greatest veracity and industry, and undoubtedly the prince of our ancient historians, who flourished in the very age of Robert, and brought down a narrative of our affairs, (which he attests was composed by himself in the times of Richard II. King of England, whose reign was prolonged from the seventh year of Robert II. King of Scotland, to the tenth of Robert III,*) from the rise of the nation, to the fifteenth year of Robert II., which appears the exact time when the work was terminated. The following are his words concerning Robert's marriage:†

* *Scotichron.* vol. iv. p. 965, Hearne's edit.

† The same, p. 962.

“ This Robert *united himself, de facto*, to one of the daughters of Adam More, knight, by whom he had illegitimate sons and daughters ; but he afterwards, in the year of our Lord 1349, espoused her *canonically, and according to the forms of the church*, having obtained a special dispensation for that purpose from the Apostolical See.” They who admit that this was written by Fordun, (who, as he treated of a subject of which the whole world had been for many years cognizant, can neither be supposed ignorant of the truth, nor actuated by any wish to impose upon others,) must of necessity acknowledge that his account may be perfectly relied on, as embracing the real truth of the case. But if there be any who, though they be prepared to listen to Fordun, a most creditable witness, may, however, entertain some mistrust on this head, whether he pronounced testimony in support of this side, because the chroniclers of a subsequent age have added so great a variety of matters in respect to his work, that it can scarcely now be determined what has proceeded from the hand of Fordun himself, what from that of the interpolators ;—to banish every scruple from their minds, there are most powerful arguments, since, in a MS. copy of Thomas Gale, published by Hearne, which is considered, with good reason, to represent the genuine production of Fordun, neither interpolated nor continued by any one, are contained the words we have quoted ; and because an explanation of the genealogy (which the same book exhibits) of the kings of Scotland and England, prolonged from Malcolm III. and the divine Margaret, of which the words formerly quoted form a part, to Robert II. and Richard II. swaying the sceptre in England, at the very period of its writing, as is expressly affirmed, that is, it

discontinues at precisely the same age of Fordun, (which explication of the royal progeny, the continuator of Fordun afterwards fancied should be brought forward by himself to James II., which he accordingly illustrated, when that monarch was still on the throne;)* and finally, we shall afterwards explain the reasons why the same continuator altered and defaced† these words for the purpose of improvement. We have seen the words, and demonstrated them to be Fordun's; it follows next to consider the opinion entertained by others. Of which circumstance, indeed, we ought to institute a fuller and more elaborate interpretation, since even learned men appear to have wavered in respect to them. First of all, then, when Fordun says, *that Robert united himself to one of the daughters of Adam More, knight*, it ought to be equally understood, as if he had written that Robert espoused, or conjoined her to himself in matrimony. And certainly Ulpian has said, ‡ as also others, § that they who enter into a matrimonial state, *are united by marriage or matrimony*; but the Emperors Leo and Anthemius too have simply pronounced *to be united*.|| Their words are, *If any one—for a guardian—shall have conducted the affairs of a ward, and united her to himself or to his son, we enact,—that such a marriage be valid*. Nor will any person with good reason maintain, that this form of expression is inconsistent with the natural and approved usage of the Latin language, since Livy and Suetonius have written

* Scotichron. book xi. c. 13, and c. 14, Edinburgh edition.

† The same, chap. 13.

‡ Book 8, C. D. concerning senators, and b. 32, par. 16, D. concerning donat. between husbands and wives.

§ B. 3, C. about the promise of dowry.

|| B. 8, concerning interd. matri. betwixt wards and guardians.

quite in a similar manner ; the former,* that Servius Tullius, the Roman king, *united two daughters to the young Tarquins*, and the latter,† that Caligula *united himself to Lollia Paullina* : how great matter of surprise is it, that this interpretation was not eagerly grasped at by all the learned men who have treated of Fordun's opinion. But there will be some, I believe, who will accuse us of the highest imprudence, because we must have recourse to procure an interpretation from the fashion of a more felicitous age, for a writer overwhelmed in the refuse of the fourteenth century, who, being ignorant of all elegancies, behoved to speak according to the manner of the times, that is, rudely. In order to remove from us such a mark of temerity, we must declare, that this use of the word *uniting*, by which is implied a marriage contract, was continued even to that age of barbarism, concerning which Fordun had the lot to belong. And the circumstance is most evident, and which can be corroborated by innumerable examples, not only to have continued, but to have appeared much more frequent. To make no mention of others, this is the most general phraseology in the canon law, that they who are joined in marriage, may be simply said *to be united* : after the same manner, on the contrary, *they* are pronounced in the same law *to be separated*, betwixt whom matrimony, which has been unjustly contracted, is broken off by divorce. To those in quest of instances of each particular, the rescripts of the pontiffs, published even in the twelfth and thirteenth centuries, will furnish a prodigious number.‡ But why multiply precedents ?

* Book i. c. 42.

† In Caligula, c. 25.

‡ You may see, c. 3, c. 5, and c. 7, x. those who were clergymen, or who had taken the vow ; c. 7, x. concerning him who had carnal knowledge of consang. ; c. 6, and c. 8, x. of consanguin. and affinity ; c. 3, x. of clandestine betrothing ; c. 13, and c. 18, x. of espousals and matr. ; c. 1, and c. 3, x. concerning spiritual relationship.

Fordun himself is a memorable evidence, and at the same time interpreter of his own judgment, concerning this use of the term *uniting*, when in that identical chapter of his work, from which the words under inquiry are selected, he writes, *that three daughters of Roger de Quency were united to three noblemen*, whom he there mentions : * no one has, however, thought of surmising that these were not wedded to the same. It is now obvious that Fordun indicated that she whom he represents united to Robert, was married to him. But he says united *according to deed*. Of these words *according to deed*, since they are required by lawyers, it is likewise proper to borrow an interpretation from the profession of the law. There is, however, a very frequent distinction in law, by which one marriage is declared contracted *according to deed*, another *according to law*.† The reason of which distinction thence happens, because it is customary for law terms to be taken in a twofold acceptation, since at one time they may be employed to signify those transactions which are perfectly equitable, and performed according to the precepts of the laws, at another time, those which are indeed conducted with the view of being valid by law, but owing to certain interposing impediments of statutes, have by no means obtained the power and effect of law. Hence that testament, as Ulpian says, ‡ “ is styled as proper which has proceeded by law : but we also designate those wills improper which are unjust, or ineffectual, or violated.” In the same manner, lawful or legitimate nuptials sometimes go under the appellation of marriage ;

* Scotichron. vol. iv. p. 961, Hearne's edit.

† C. 4, x. concerning bigamy ; c. 30, and c. 31, x. of espousals and matr. ; c. 5, x. of the spouse of two ; c. 3, and c. 8, x. concerning the person who has married in matr.

‡ L. 2, par. 1, D. in what manner wills are explained.

sometimes, *when in the contracting of matrimony*, (you hear the words of Innocent III.)* *not the effect of law, but the mind's determination is regarded*, any marriage whatsoever also prohibited by law, in relation to which, doubtless, inclination has passed between the nuptial deed, is however destitute of the validity of the law. Nor is it likewise a rare occurrence for the appellation of marriage to appear in the same subject, now in one sense, now in another : as when Papinian writes, † *the commander of a cohort, contrary to prohibition, married a lady of that province, in which he was on duty : that will not be marriage*. Again, in the rescript of the Emperors Valerian and Gallien, ‡ *If you have married your father's ward, when the conditions of guardianship have not yet been fulfilled, you may perceive that matrimony cannot be continued with her*. Unquestionably, in both these cases, although marriage was accomplished, as far as belongs to the deed and purpose of the parties contracting, the authority of the law, however, debarred its subsisting, that is, its being valid by law. Which species of matrimony, an ancient poet, according to Cicero, has elegantly designated *innuptas nuptias* (an unmarried marriage.)§ To abolish this ambiguity of speech, a later age contrived a distinction, by which, upon annexing the words *according to law*, or *according to deed*, whatever happened to be advanced concerning marriage, or other law appellatives, it might be well known in whether sense they should be received. It naturally appears that this distinction is to be associated to those subjects alone which possess the import of law, and not to those that denote a mere deed. From which it follows also, that the words of Fordun, informing

* D. c. 4, x. of bigamy.

† L. 63, D. on the rite of marriage.

‡ L. 6, C. on interd. matr. betwixt wards and guardians.

§ The Orator, book iii. c. 58.

that Robert united to himself, according to deed, a daughter of Adam More, come to be understood by us, not with respect to concubinage, (which the canon writers term a carnal tie,) but concerning marriage united according to deed. Fordun farther adds, that *Robert had sons and daughters by her out of matrimony*. He pronounced these begotten not in matrimony; *because, as Gregory IX. says,* matrimony which is contracted according to deed is considered, neither as genuine, nor of any consequence*. Fordun has not narrated in what year the marriage was consummated. Its period may, however, be determined so far, from what is reported by the continuator of Fordun respecting the death of Robert, Governor of Scotland;† viz. that he departed this life on the third of September, in the year 1419, being above eighty years of age: on which condition it must of necessity follow, that his nativity was of an older date than the 3d of September of the year 1339. And since he was the third son of Robert Seneschal and Elizabeth More, we ought surely to conclude, that the marriage of his parents could not have been later than the year 1337: but there is nothing to prevent its being referred to a time somewhat more remote.‡

* C. 30, x. on betroth. and matr.

† Scotichron. book xv. c. 37. Edinburgh edition.

‡ In a parliament which Edward of Baliol held at Edinburgh in the month of February 1334, near to the Roman manner of counting, John Bishop of Glasgow was present. Publ. Acts of Rym. vol. iv. p. 594. I have not as yet ascertained at what time after that he died, or in what year William afterwards entered into the bishopric, (when he was Bishop of Glasgow, a dispensation was at length assented to that marriage.) It is manifestly false, that John died in the year 1325, as is read, according to Spottiswoode, in his Eccl. Hist. of Scot. book ii. p. 114. For 1325, it ought probably to be read according to him 1335. The same writes, that to these two, John and William, there happened an intermediate election to that of the former, and then the latter individual, who, when they had undertaken a journey to procure their confirmation from the Pope, the

Nor more has Fordun mentioned by what impediment it happened that their marriage could not be efficacious by law : judging the disclosure of little consequence, since he was forthwith about to transmit, that they afterwards obtained an opportunity of closing matrimony by law. But the same Robert has informed us respecting that, over and above what Fordun has had to declare, who in his charter,* granted to the church of Glasgow, on the 12th of January 1364, for the purpose of founding a chapel, intimates that consanguinity and affinity proved the impediment, in contracting matrimony betwixt himself and Elizabeth More.† But the reason of interdicting marriage in that age betwixt any persons of kindred and affinity, may be discovered from the canon books. For then, and during a good many centuries before, the Roman pontiffs challenged to themselves the power of determining marriage according to law, by the connivance of princes :

one as yet advancing, the other whilst returning, being seized by the English, were put to death.

* Above quoted.

† There, about to explain the motive for his donation, Robert writes as follows : “ When *long ago* it was specially commissioned by apostolical letters to the venerable father Lord William, by the grace of God, Bishop of Glasgow, to impart dispensation by apostolical authority, with regard to contracting matrimony betwixt us and the *late* Elizabeth More, *whilst she was in existence*, there being no impediment of consanguinity and affinity opposing, *substituting as an impediment to the aforesaid matrimonial contract, provided that we should found two chapels, or one, according to the option of the bishop himself*: and the said venerable father, *after considering what ought to be considered in this particular*, upon conferring dispensation on us with respect to the aforesaid impediment, on the authority which we have stated above, *enjoined us, that one chapel should be perpetually founded in the church of Glasgow to one certain altar, besides a pension of ten marks sterling, to be received annually from our own proper income : and we thus faithfully engaged to establish the same chapel within a determined period, already elapsed, that the bishop by injunction then limited to us : your university has known that we granted these by reason of the aforementioned consideration,*” &c.

which they retain even to this day, wheresoever their authority flourishes. These extended the prohibition of incestuous marriage, however, very far beyond the limits of the natural and divine law. If so be, marriage was forbidden crosswise betwixt relatives, and betwixt kinsfolk, even to the seventh degree, by the Pontifical law, previous to the general council of Lateran, under Innocent III., in the year 1216 : * the decree † of this assembly at length circumscribed that prohibition so far, so as not to extend beyond those allied in the fourth degree, whether of transverse kindred, or of affinity ; namely, by reckoning the degrees according to the custom received in the canons, ‡ the father and sister to be ranged in the first degree, one with another, cousins-german (from brother and sister) in the second ; cousins-german (from two sisters) in the third ; and lastly, the son and daughter of cousins-german in the fourth. It must needs be, therefore, that Robert and Elizabeth were akin to one another in the fourth, or a nearer degree both of kindred as well as affinity. For Robert affirms that both proved an obstacle to his marriage, § when he announces that he obtained permission by favour of the Pope, to contract matrimony with Elizabeth, *as no impediment of consanguinity and affinity interposed*, there being an impediment substituted to the aforesaid matrimonial contract. I am aware, there are those who suppose that this connected expression ought to be understood here as unconnected, and that the syllable *and* is pronounced instead of *or*, so as to imagine that not each impediment of consanguinity and affinity obstructed, but one of the two. I am far from approving of their opinion, as I conceive that mode of ex-

* C. 3. in prin. x. On clandestine contract.

† C. 8. x. On consanguinity and affinity.

‡ Can. 2. xxxv. 9. 5.

§ In the diploma just now quoted.

planation exceedingly dangerous, nor to be attempted but as a last shift. But in this place we are not at all necessitated to apply so great violence to the words ; nor can any shadow of reason be observed on which the belief of learned men may be grounded. It assuredly possesses no advantage with regard to this circumstance, that *there was no interposing obstacle of consanguinity and affinity*, &c. is expressed in the singular number, and not in the plural, *there were no interposing obstacles*, &c. For although the rules of grammarians notify, that adjuncts which are linked to many singular nouns coupled together, most commonly require the plural number ; on the contrary, the singular, with these separated ; it is however comprehended also in their precepts, that when adjoined to such as are coupled, they are very frequently represented in the singular. The Pope delivered himself also in the singular, in like manner, as here, when in the year 1302, he authorized Humphry, earl of Hereford, to marry his cousin and kinswoman, *there being no obstacle of the degrees of the third affinity and fourth consanguinity in the way*.* Neither am I ignorant, that the Popes in after times were wont to extend favour, when solicited, so as to grant license to some impediment, for instance, of consanguinity, not only of that, but even of other hindrances ; suppose of affinity, of spiritual kindred, and the *publica honestas*, which might perchance lurk obscurely, as it were by means of a general conclusion, (although they could make no repeal concerning these), that matrimony might remain more secure from any impeachment.† But far different was it in permitting Ro-

* Pub. Acts of Rym. vol. ii. p. 903.

† A dispensation in a MS. volume in the Advo. Libr. Edin. which is entitled, *Traiteze ntre les Roys de France et les Roys d'Escosse*, fol. 184, written in the year 1558, for Francis Dauphin of France, and Mary Queen of Scots, affords an example of this circumstance.

bert's marriage, since it is openly asserted, the privilege was granted as no interruption stood now in its way, save that of consanguinity and affinity. It is therefore certain, that Robert and Elizabeth were related both by kindred and affinity, and indeed mutually nearer than the grandsons of cousins-german, and in a uniform degree of kin with these. But it appears no where recorded, of what degree they must have been reciprocally removed from these, who were prohibited by the canons to marry. Nor is it more apparent, what principle produced affinity betwixt them. That is indeed evident, it was occasioned by no marriage of Robert with a kinswoman of Elizabeth; because in the law concerning the succession to the throne, established in the third year of Robert, which we have taken notice of above, the children of Elizabeth are described as being by the king's first wife. A conjecture not to be disregarded seems to be apprehended in reference to Elizabeth, likewise as having had no matrimonial connexion previous to that with Robert, from this, that whenever mention is made concerning the marriage contracted betwixt her and Robert, she is not particularized by Fordun and Robert himself, otherwise than Elizabeth More, or the daughter of Adam More; neither has she chanced to obtain any demonstration arising from the quality of any former husband, nor commutation of hereditary surname, (according to the usage observed in that age by the married.*) Besides, if John Andrew's opinion be well founded,† who imagines that matrimony, when closed by in-

* For instance, in the MS. collections of the illustrious Earl of Haddington, in the Adv. Libr. Edin. p. 114. vol. xiii. p. 76, there is a *donation from Thomas of Hay, knight, granted to Janetta Monipenny, his daughter, formerly the spouse of John Monipenny*, which David II. confirms.

† In the declaration of the tree of affinity, subjoined to the ult. canon xxxv. 9. 5. part. III.

dulgence of the Pope derogating the obstacle of affinity, proceeding from nuptial intimacy, is not valid, deigning no remark, however, on the impediment of the *publica honestas*, which results from the very contract of marriage, because he considers this as continuing after affinity has been thus removed, (according to this opinion, indeed, we read, * provision was made in the deeds, concerning the marriage of Henry prince of Wales, with Catharine of Spain, agitated in the year 1503; that license should be requested from the Pope, as well for a contract of the *publica honestas*, as of affinity, on account of Catharine's connubial state consummate before with Arthur, the brother of Henry): If this opinion, I say, be well founded, it will be concluded, that the affinity which impeded Robert's union was apart from marriage, because we do not discover that he had immunity of the *publica honestas* granted him. But I lay little stress on this argument, since I have been informed, as well from the authority† of highly eminent expounders of the law, as from numerous documents ‡ of facts, that it was sufficient for the impediment of affinity to be remitted, without specifying the *publica honestas*, the partner of affinity. If it were, at length, in this manner evident, that Elizabeth experienced no marriage prior to that with Robert, the inference would be irresistible, just to admit that the affinity arose from her being his mistress, or by some unlawful alliance, suspicion of which may very safely fall on Robert, who was nearly all his life addicted to amours. It appears, therefore, that the marriage which Fordun writes, united Robert and Elizabeth together in the beginning, according to deed, was not available; because they had joined in op-

* Pub. Acts of Rym. vol. xiii. p. 76.

† Covarruvias at the 4th book of Decretals, in Part II., c. 6, sect. 6, n. 5.

‡ Pub. Acts of Rym. vol. ii. p. 903, before quoted.

position to the commandments of the canons respecting those who were closely related in affinity and kindred, without having impetrated leave of the Pope. For marriage contracted within the degrees prohibited by the Pontifical law was allowable, if, from the favour of the Pope, it had what they call a dispensation granted: because there was thus a cessation of the church's interdict, on account of which, princes suffered marriage of this description to be considered as iniquitous. But in order that men might be the more effectually deterred from this sort of matrimony, without the Pope's dispensation, by the dread of being visited with punishment; it was decreed by Clement V.* in a general council at Vienna, in the year 1311, *that those who should knowingly contract matrimony in the degrees of consanguinity and affinity, interdicted by the canon institution, besides other penalties which the laws should inflict upon them, they would be subjected to the doom of excommunication, so long as appointed for that deed, until, humbly acknowledging their error, they would be sundered from one another, and have the benefit of absolution conferred.* Which ordinance punished a contract of marriage within the forbidden degrees, even without incest, as it consists only of union: incest, it did not punish, because it was committed without marriage.† Nor is it any where read in the books of the Pontifical law, that excommunication for incest committed without marriage, was imposed upon those arraigned by this law.‡ Wherefore, after the decree of Clement V., they who entered intentionally into marriage illicit, because of a proximity of blood and affinity, were by

* Clem. un. concerning consanguinity and affinity.

† Commentary to d. Clem. un. on the word *wittingly*, and on the word to *contract*; and DD.

‡ See the treatise of the blessed Antoninus on excommunication.

this same law excommunicated. Those craving the Pope's pardon and assistance, if so be they desired to get rid of their legitimate marriage, were first commanded to expiate their offence, and have the benefit of absolution awarded, by the deed of penitence, and eleemosynary munificence, according to the extent of their substance, for the interest of the church, or for other pious purposes; and afterwards, when they had been separated according to the canon form, to engage in matrimony again, generally by a dispensation writ. Thus, when Edward, eldest son of Edward III., King of England, and the Countess of Kent,* though apprised that it was not lawful for them to be joined in marriage, on account of the close tie of blood and spiritual relationship by which they were mutually allied, had however united in it, they addressed Pope Innocent VI. through the medium of a bill of request, King Edward, in like manner, subjoining his entreaties, that their marriage, in which it was unlawful to continue without his approbation, was not accelerated in contempt of the church, but from the hope of obtaining dispensation; they signified, that provided he should give his sanction to it, important advantages were expected to be forthcoming; but if not, that much opprobrious scandal impended: they supplicated, therefore, he would absolve them from excommunication, exempt from other penalties, and impart the benefit of dispensation. Influenced by these solicitations, the Pope, by means of his letters, written on the 6th of September, in the year 1361, commissioned the Archbishop of Canterbury, first to part Edward and the Countess of Kent, according to the canon form; thence, after enjoining penitence by the erection of two chapels within the space of one year, either of

* Pub. Acts of Rym. vol. vi. p. 333.

which to receive from them annually twenty merks of money as a portion; to absolve from excommunication, and release from punishment. And if after duly pondering the matter, he should esteem it reasonable, to bestow the aid of dispensation, in order that they might contract matrimony anew. The Archbishop, even as it had been entrusted to his charge, on the 6th of October following,* denounced the matrimony to be null, which had been celebrated betwixt Edward and the Countess, according to deed, and separated them after the canon sanction; after that he granted them absolution, exemption from punishment, and the protection of dispensation. Then, on the next Lord's day, which was the 10th of the same month, by the consent of relatives, above all, of Edward's father and mother; after premonitory notice of the banns, as they term it, had been issued, the marriage was solemnly renewed betwixt the same in sight of the church, the Archbishop conducting the ceremony, and in presence of a vast concourse of witnesses, men and women, of the most exalted rank and renown. That a dispensation was conferred expressly after the same ritual upon Robert Seneschal of Scotland, and Elizabeth More, not many years before this fell out, and that their marriage was formally repeated, the testimony of the most undoubted authors confirms. For Robert himself, in the diploma granted by him to the church of Glasgow (the words of which we have formerly inserted in the margin) testifies, that William Bishop of Glasgow had been deputed, by means of pontifical letters, *to ordain that one or two chapels, according to his own arbitrament, should be perpetually established for him*; that is to say, as an accession in token of penitence, and pledge of a repentant spirit, by which

* Pub. Acts of Rymer, vol. vi. p. 334.

the branding stigma of excommunication arising from marriage coalesced with kin and cousin, in opposition to the canons, might be averted as by purchase; *and to afford him the furtherance of dispensation to contract matrimony with Elizabeth*: and that in consequence of this mandate, the bishop enjoined that he should have one chapel erected within a period, determined by him, and that it should be invested with an annual largess of ten marks sterling; and after deliberating on the equity of the affair, conceded a dispensation.* And Fordun is likewise the reporter, *that the dispensation of the apostolic see was procured and obtained* by Robert, after Elizabeth had been united to him, according to deed, and sons and daughters been begotten by her, who, I may remark by the way, being inferior to none in the knowledge of formal dispensations, and legitimate expressions, delivers this, by a formal tautology which he employs, announcing that a dispensation *was procured and obtained*; the adoption of which was very customary on such occasions.† The same afterwards writes, that Robert, upon procuring a dispensation, *espoused her canonically and by the ceremonial of the church*. Where the word *to espouse* is introduced by Fordun, according to the practice of the canon law, in which espousals for the present (as they call them) indicate the very contract of matrimony, so

* In respect to this, it is probable that John Kennedy of Donnonure acquired a dispensation of the same nature, who relates in his establishing of the chapel at Maybole, written on the penultimate day of November 1371, the confirmation of which, granted by Robert II., is extant in the public register, *that he was enjoined for a consideration by the same bishop William, on the authority of pontifical letters, to erect one chapel to be continued for ever*.

† You may see copies of this formula in the letters of Edward I. King of England, addressed to the King of Norway. Publ. Acts of Rym. vol. ii. p. 474, and in the deeds pertaining to the marriage of Henry Prince of Wales, with Catherine of Spain, above quoted.

as to have the same signification as the term to *take*, or in the manner it was used before, *to unite to himself a wife*. Thus he elsewhere characterizes one who espouses as a husband.* He says *canonically*, in order to contrast this latter marriage, contracted in compliance with the rules of the pontifical law, after the impediment had been already cancelled by dispensation, with the former, which had been agreed upon according to *deed*, that is, contrary to the canons. In the last place, he says the marriage was propitiated by *the ceremonial of the church*; implying, that after public proclamation of the banns, the union was solemnly intimated in presence of the church, (like as we have seen observed in the renewal of Edward's marriage.) Fordun supposes that this marriage was repeated with Elizabeth in consequence of a dispensation towards the year 1349: neither is it likely to have been at all wide of that, since in the charter granted by Robert in the year 1364 to the church of Glasgow, for the purpose of founding a chapel, as had been appointed,† the dispensation is stated as having been procured *long ago*, and the period prescribed by the bishop for establishing the chapel as having already expired. So that there must have been an interval of at least thirteen years between the former and latter matrimony. What motive had prevented a dispensation from arriving more speedily, has not been commemorated: and we forbear to explore it by conjectures, although it is well known that a dispensation was adjudged; why it was so long deferred, is completely involved in mystery. It certainly ought not to appear matter of wonder, that the causes and intents of facts are passed over in silence by Fordun, who is exceedingly barren even in disclosing facts.

* *Scotichron.* vol. iv. p. 963, Hearne's edit.

† Above quoted.

Thus far concerning Robert's marriage with Elizabeth. The following discussion will be concerning the right of the children, who, previous to the dispensation, were the offspring of their marriage held improper and incestuous by the pontifical law. To vindicate the soundness of their condition, remember, Fordun deemed enough had been detailed by him, that their parents afterwards obtained the dispensation of the apostolic see. Assuredly the dispensation served to protect henceforward by law, the condition derived from birth which they had before continued in possession of according to deed. For the impediments which the pontifical law had created for contracting marriage, could be cleared away by the authority of the Pope, from whom that law had proceeded. And they were cleared away, since (after repealing the ecclesiastical ordinance, how far it would have obstructed, or had obstructed,) the Pope presented a dispensation upon their requesting to consummate an equitable match, and that the consequences which had already resulted in other years, whether previous to closing the marriage accounted improper by the pontifical law, but allowable by another law, or subsequent to it, should be considered as legitimate. On both sides, the marriage was transplanted to that footing on which it would have existed had no prohibition been enacted by the Pope: so that it might appear, by primeval law, to be productive, or to have been before productive, of legitimate effects. Princes had received pontifical right to determine litigations, which were agitated about the right of matrimony; but they had received it, just as it was, subject to the Pope's controul and choice of conferring immunity. And seeing that they yielded implicit submission alone to this law, so as to reckon marriage, in other respects genuine, as iniquitous, because it was forbidden

by that law; they surely would not have discountenanced the good will of the church complying with the spirit of these very laws, and protecting the fruits of marriage civilly when proper. And truly it argued no incivility for the condition of the children, descended out of matrimony, now wavering and unsteady in consequence of the church's own decrees, to be confirmed by the same. But the church did effect a remedy to secure the soundness of their situation who were the offspring of improper matrimony (whom the expounders of the canon law denominate as *being procreated in the form of matrimony*), either by a universal mandate, viz. when matrimony had been publicly contracted in presence of the church betwixt those unconscious of impediment, whether one or both, (for the condition of children between these, even after matrimony had been dissolved by reason of defect, was preserved by a general canon),* or by means of special benefit of dispensation, when, for example, both had designedly, or undesignedly, engaged in matrimony, interdicted by the pontifical law. According to this, Caelestinus III. wrote back in answer to what he had been consulted about by the Archbishop of York,† that the sons^u (those concerning whom he was asking counsel,) who had issued out of matrimony, made up in opposition to the canon law, seemed not entitled to be admitted as successors to their paternal estates, *since they could be excused neither in terms of the church's permission, nor under pretence of parental ignorance. Because* (thus the annotation propounds the argument) *the parents contracted designedly, nor had the church's dispensation followed. But that the permission of the church, as is expressed by Caelesti-*

* C. 2. x. those who were legitimate sons; C. 3. x. concerning clandestine espousing.

† C. 10. x. those who were legitimate sons.

nus, had not interposed in the aforesaid case, the comment * in like manner elucidates in the following words : that is, *without the church approving such matrimony by permission, that is, dispensation : because the church afterwards came to no overtures with these about immunity. And through the church's dispensation, matrimony is approved for the sake of sons.* The comment thus doubtless concluded, that matrimony was held ratified by the Pope's dispensation, whensoever this arrived, and the nature of those things which were esteemed ratified, to be transported backwards in this light to that period at which the agreement took place. Doctors likewise, of whom Sanchez weaves out an enormous catalogue,† are unanimous in the idea, that the defect of matrimony, which proceeds from the canon law (otherwise if it originate in the divine law) on account of the unexpected arrival of dispensation, is amended in reference to the past, if the Pope designs that when communicating dispensation : and they confirm this opinion on the authority of cases decided before the tribunals of princes in Normandy and other countries. But when the Pope is thought to design that, they represent it by this distinction, as if immunity be conferred *from that time*, that is, from the day of the matrimonial contract, (because it is by this means understood, at what time the dispensation either measures its way backward to the commencement of the matrimonial contract, or approves of the faulty marriage, or appoints the children descended from it to be admitted as successors to legitimate inheritances,) they judge that dispensation takes its rise *in the root of matrimony*, and that the children's condition formerly

* At d. c. 10. about the word *permission*, at the same time quoting c. 6. x. on consanguinity and affinity, c. 13. x. those who were legitimate sons, and can. 1, xxxv. q. 8.

† Concerning matrimony, book viii. disp. 7. n. 4.

brought forth is whole: and the contrary, if *from the present time*, that is, from the day that the dispensation was written. Also, when dispensation is given *simply*, if the Pope grant liberty to *continue in matrimony before contracted*, or to *contract the same*, many suppose that after dispensation has been conferred upon mention of the former unwarrantable matrimony, that the marriage is approved of, and that defect is withdrawn from its root.*

We have already shewn above, that Robert Seneschal had obtained the Pope's dispensation, after matrimony contracted with Elizabeth, and children born by her. Therefore, the state of the children previously descended was thence secure from the sentiment suggested in the comment, which requires that dispensation followed, nothing beside. But Doctors, more capricious than the comment, demand that immunity be centered *in the root of matrimony*: all the difference of which matter is founded on the words and conclusions of dispensation. But in what words the dispensation which Robert gained had been couched, or what conclusions (except these, which we have inserted above from the charter written to the church of Glasgow,) it had embraced, cannot be demonstratively exhibited to our view, since the dispensation itself may no longer appear; but yet that it proved effectual in preserving the condition of the children previously born, the issue of the circumstance sufficiently declares; because it is manifest they were successively reputed legitimate by all through every gradation of age. But you will say, however, that the matrimony of Edward Prince of Wales was denounced as null, broken off, and afterwards renewed, in consequence of the Pope's dispensation. And it is assuredly probable enough, that the same was

* Jo. Bapt. Lup. concerning the restoration of illeg. and nat. children, comment. iv. sect. 1. n. 56; Peregrin. de fidei, comm. art. xxiv. n. 79.

observed in the matrimony of Robert. But does that at present appear like ratification? I may truly rejoin, it was not unlike. For ratification or approbation, even when especially expressed, does not evince that matrimony has been consistent in a retrospective point of view, as it was in very deed of no force by the canon law, nor that it can inherit validity as to the future from the former admission, which was void by reason of canonical defect, since by the authority of none can actions be transformed, or rendered as if they had never been; but only, that certain effects, thence previously resulting, may be considered in relation to the past, as proper. Why, therefore, seeing there was no matrimony, could it be denounced as null? could there be any renewal, since it was absolutely necessary for the same to be renewed by a fresh agreement? Since in like manner matrimony existed only according to deed, it could experience no farther interruption than was customary for the nuptial state according to deed. The separation then which there intervened, pointed to futurity, viz. they were to be asunder for the time coming, until matrimony had been lawfully renewed betwixt them: not to the period that had rolled away, as past deeds are under no person's controul. Further, in the actual dissolving of matrimony, forthwith to be renewed, that imaginary, and for form's sake, interposing occasion, or in whatever other light understood, owed not its accomplishment to a tribunal, but clearly to the unanimity of the parties; it was not performed that matrimony might remain in a state of disunion, but that it should be cemented by law, in compliance with the too subtle interpretation of the decree of Clement V., which ordered relatives and kindred allied in matrimony contrary to the canons, to be separated before they could be absolved from excommunication. But since that ordinance intimated no

other aim than that there could be no absolution imparted, so long as the offence continued, nor as little after closing the lawful, as well as rescinding the illicit matrimony, could there be any termination of the fault ; thence that redundant observation annulled the period as yet unrevolved, and it was solemnly announced, that, in consequence of no preceding dissolution of matrimony, could any thing in relation to absolution and dispensation be procured. In fine, the preservation of the children's condition was supported by the repeal of the ecclesiastical law (how far it had impeded their condition) expressed or implied, so that the matter was handed back to the primeval state, in which it was altogether blameless, in order that the children might thence be distinguished as legitimate in former times, and descended of legitimate matrimony. And also the indication of tacit repeal was apprehended from this, that the Pope, in awarding dispensation, gave his sanction to marriage that had already been contracted before in opposition to that law, after those instances, which we have unfolded more particularly above. Nor was this conjecture of there being such desire invalidated on account of that momentary and imaginary separation, which was understood to exist between the solemnities of the very perfecting of dispensation. Do you require besides a precedent of dispensation, by which, although matrimony had been commanded to be broken off and renewed, the children previously born, however, preserved their condition sound and unshaken, and obtained possession of the paternal property ? a case decided in the auditory of the Roman Rota, which Cardinal Puteus reports, will furnish a notable one.* And, as in other countries, it was in like manner understood

* Book ii. Decis. 493.

to have prevailed in England, that in consequence of the bulwark of dispensation, by which marriage contracted in violation of the canons was rendered confirmed and permanent with regard to a perpetual and uninterrupted stability of union, the state of children previously brought forth was established on a steady basis; from which it appears, that matrimonial concernments were managed even in England by the pontifical law, of which that prerogative of conferring dispensation, reserved for the Popes, formed a part. And as such dispensations at least detracted from and abated the authority of the ecclesiastical laws, but, on the other hand, enlarged the influence and empire of the laws peculiar to the country of each people, which opposed marriage of the same nature, out of reverential regard for the canons alone; so that the English nation, being only most zealous in ever preserving all its proper laws, had every inducement to have the aforesaid discarded and turned adrift: and it also appears from examples of the same manner of dispensations, either requested, or even obtained by the kings of England. I feel disposed to give publicity to some instances of this kind. When Edward of Letham, a Scottish gentleman, and Joanna of Clifford, an English lady, allied together in the fourth degree of kindred, *had clandestinely contracted matrimony according to deed, that matrimony might subsist between them by virtue of immunity*, Edward III., King of England, on addressing letters to the Pope, esteemed it not beneath his dignity to request the protection of dispensation, *in order that it might be lawful for them to remain matrimonially united; and that the offspring (if any such should happen to arise between them in the matrimony pronounced immutable) should be judged legitimate.** The same king likewise, when Richard, Earl of Arundell, *married*

* Rym. Pub. Acts, vol. v. p. 1.

the Earl of Lancaster's daughter, allied to him in the second degree of affinity, that *this union might the more lawfully continue*, supplicated the Pope to grant them dispensation, if such were his pleasure, *to the end that they might lawfully abide in matrimony thus contracted, and declare the issue proceeding from the reputed nuptials legitimate.**

Besides, we have perceived above, that the same king, in relation to the marriage of his son Edward with the Countess of Kent, requested dispensation, and obtained it upon request from the Pope, after certifying, if he should feel inclined to give his sanction to it, that considerable advantages would redound, but numerous evils provided he should refuse that.† Which dispensation *announces*, therefore, that it allows legitimacy to the offspring which might be received, namely, which should arise from this matrimony, (making no mention of offspring having been already received), because when this was requested, and commissioned by the Pope to be effectuated, neither had there as yet any issue proceeded, nor could proceed either then or afterward, within the compass of that time, in which dispensation was supposed accomplishing, and indeed truly accomplished. For since Thomas Holland, the former husband of the Countess, departed this life on the 28th of December 1360,‡ but the letters in which the Pope gave orders for the fulfilment of dispensation, appear to have been written on the 7th of September of the following year, (in the very beginning of the ninth month thereafter); it must needs be admitted also, that dispensation was solicited for the first time, after the celebration of the marriage betwixt Edward and the Countess. And since, in

* Rym. Pub. Acts, vol. v. p. 442.

† The same, vol. vi. p. 333 and 334, quoted before.

‡ Dugdale, concerning the Barons of England, vol. ii. p. 74, alleges by way of evidence for establishing the truth of this circumstance, &c. 35. E. 3. n. 104, Claus. 35. E. 3. m. 34.

like manner, the whole business of dispensation was fully completed within ten months from the demise of Thomas, all must surely of necessity acknowledge, that they could have had no offspring previously, except there be those who will have the hardihood to give it as their opinion, that the Countess incontinently after the obsequies of Thomas hurried straight into marriage with the Prince, (a circumstance which in every respect fades from probability). But although any offspring conceived before the renovated marriage should afterwards be born, it was entitled to be legitimate, as well by the writing of dispensation, as by the identical canon * law of the English also.† From which it demonstratively appears, that no irrefragable argument can be adduced to shake the force of this precedent by the overslipping of a conclusion, that it never was anticipated there would be occasion for. Hear another example too. In the year 1503, on the 26th of December, Pope Julius II. communicated dispensation to Henry, son of King Henry VIII. and Catharine of Spain, who had been married first to Arthur, Henry's brother, granting them liberty *mutually to contract matrimony, and to continue in it after it had been contracted, although they had perchance already publicly or clandestinely contracted aforetime according to deed, and consummated that by a carnal bond; and decreeing the issue legitimate that had perhaps descended or should descend from such like matrimony, whether contracted or to be contracted.*‡ In this particular instance, I cannot disavow that dispensation was adjudged not quite religiously, (and to express it with the ancient interpreter of the canonical law), *by far too Popishly*: yet will it not be less cogent on that account

* Jo. Bap. Lup. concerning illeg. and nat. rest. children, comment. iv. sect. 3, n. 13.

† In the statute, composed at Merton, in the 20th year of Henry III.

‡ Rym. Pub. Acts, vol. xiii, p. 89.

with regard to proving the usage of dispensations received in England also, in order to banish the inconveniences arising from divorces, and to protect the condition of children brought forth in the form of matrimony. Certainly the case of children of that description, and of those legitimated by subsequent matrimony, was dissimilar. The former, the English repelled from legitimate heritages, not suffering their own national custom to be violated by the pontifical law, as it deemed none in the state of legitimate son and heir, with the exception of him who had been born of marriage.* The latter, on the contrary, they admitted to such, in consideration that they had proceeded according to matrimony, of that improper class indeed, but whose effects were considered as equitable in a retrospective light, on account of the repealing of the ecclesiastical law by dispensation, how far it had obstructed the children's condition. And thus Bracton says generally, (who in England when the age of Henry III. was already on the decline, rivalled the most eminent in the administration of judicial proceedings.) *He is a legitimate son and heir whom marriage demonstrates to be legitimate : such as he, who has descended of legitimate matrimony ; or he who is considered legitimate in the face of the church, although matrimony has not existed in verity, suppose this was closed betwixt those allied in consanguinity or affinity, or in any other manner that matrimony could not continue.†* Over and above that which we have now endeavoured to make manifest by many, and these the most incontrovertible facts, that the elder children of Robert Seneschal were born in matrimony contracted according to deed, and through dispensation had acquired perfect security of con-

* In the statute of Henry III. above quoted.

† On the laws and customs of England, book ii. c. 29, sect. 3. Flete has the same likewise in almost as many words, book i. c. 14.

dition, a vast and invincible weight of evidence is also added to confirm the fact, from this, that if they had been brought forth without marriage, of a free bed, they could on no account have succeeded in arriving at legitimacy of birth by reason of the subsequent marriage of the father and mother, because at what time the children themselves were begotten, it had been interdicted by the canons for marriage to be contracted betwixt the parents, on account of the relationship and affinity that rendered each other akin; so that, unless the matrimony which dispensation afterward approved, had intervened, they would have been spurious, not natural children, neither arisen from concubinage, but incest: such as become not legitimate by after matrimony. In like manner, Sanchez describes the children to be natural, who are born before marriage, of parents betwixt whom matrimony could endure without pontifical dispensation: on the other hand, they are by one consent of all the doctors reputed spurious, when thus conceived and brought forth previous to dispensation of those betwixt whom there is no wedlock without dispensation, although, however, there exists some diversity of opinions concerning those conceived anterior to dispensation, but brought forth after it (some judging these as spurious also, but by far the more numerous party, with whom he himself entertains the same sentiment, that they are natural); neither do such like children, proceeding previous to dispensation, reap any advantage with regard to the right of entering on the enjoyment of legitimate inheritances, even although the Pope may especially make provision in his dispensation to have them legitimated, since the privilege of legitimating, which is peculiar to the Pope, extends only to ecclesiastical acts; nor is this observed in relation to those begotten of matrimony solemnized in opposition to the canons, who, after the defect of matrimony has been swept away by the roots in conse-

quence of dispensation, are esteemed perfectly legitimate ; and it is attested, that all acknowledge this.* From the dispensation therefore obtained by Robert, which, upon subverting the impediment of the canons in consideration of the past, restored the lineage of the children to the original circumstance of dignity, as we have declared at the commencement, they were ever held legitimate, whilst they were in existence, by the kings themselves, and all the citizens of all the estates, as well of their own as of the neighbouring nation, in the whole public and private transactions. Nor is it besides matter of surprise, if Winton, (who illustrated the Scottish history, while Robert Duke of Albany presided in the regency for King James I.), when he makes mention of the inauguration of King Robert III. who was the eldest of these children, designates him the *son* and *heir* of Robert II.,† neither discovers any thing strange or unaccustomed in his succession.

Thus far have we been employed in demonstrating the truth of the subject. It remains for us to endeavour to explain the origin and progress of this error, that has tainted the writings of posterity. Which unquestionably, if any thing else be so, is a matter of exceedingly difficult investigation ; nor yet (if I am presaging at all aright), are the issues to be despaired of, since this is commonly the peculiar province of truth, to deduce in company with itself, by its own, the bewildered light of error also. Let us adventure therefore, but by some unbeaten track, nor hitherto attempted by any one. It is sufficiently manifest, from what has been already advanced, that there were two marriages with Robert and Elizabeth, the one united without the protection of dispensations, according to deed, the other at length, after dispensation was procured,

* On Matrimony, book viii. disp. 7, n. 3, 14, 16, 18, and 19.

† In the Chronicle, c. 197.

celebrated canonically and in the form of the church. Of which it is probable that this was honoured with the chief celebrity, and by far the greatest splendour and equipage, by reason that Robert, then under the title of Regent,* conducted the business of the whole realm, King David being detained in captivity by the English. Concerning this marriage, therefore, so publicly witnessed, and recommended to the busy voice of fame, which Robert consummated a second time with Elizabeth, some reflections had attached to him, whose authority was inevitable, nor suspected of falsehood, who, during the reign of James II., undertook to enlarge Fordun's work by a supplement and continuation, having explained that the mention of the second marriage there alluded to the renewed agreement, and the renewed vows, this, rashly indeed, but however by a very easy mistake, passed into the opinion that he entertained the belief, that she whom he found married the second time, was the second wife. But with regard to the marriage constituted a second time with Elizabeth, enough has been already related above, illustrative of this matter; the very necessity of the circumstance abundantly stimulates also to defend the expression, and in like manner the accustomary phraseology. For thus the Pope, when confirming those things which had been observed in obedience to his injunction, in the marriage of Edward Prince of Wales, says that his matrimony was *at first* illegitimately contracted.† And that the continuator of Fordun had no other hand in leading to error besides this, appears from the fact, that his narration of the matrimony of each wife, beyond what the aforesaid erro-

* He dignifies himself by that title on the 9th of June 1348. In the chartulary of Paisley, in the 219th page, (of that copy which is preserved in the Advocates' Library, Edinburgh.)

† Pub. Acts of Rym. vol. vi. p. 343.

neous interpretation of the second marriage conveys, never departs from the truth. As he will exhibit his words * to the inspection of every one,† viz. having come by that occasion, which we have mentioned, of falling into error, his believing Elizabeth to have been Robert's second wife was totally unfounded. Upon which supposition it followed to imagine that the other wife, namely Euphemia, (since it had been known for certain, that he possessed but two) was the first, and to write that at length on her decease Elizabeth was married. For no marriage, constituted as it should be, was concluded otherwise, according to the law at that period universally received, than by the death of one of the yokemates. He writes in another place,‡ that Queen Euphemia died in the year 1387. Therefore, by his own opinion, it was impossible for a second wife to be introduced previous to that year into the family, having no vacancy for such. And since in like manner he was in possession of the knowledge that Elizabeth's children surpassed those descended of Euphemia in point of age, it must of necessity have been conceived by him, that they were born prior to the first, not to say the second marriage of their father, and were in conse-

* Scotichron. book xiv. last c. Edin. edition.

† The continuator of Fordun's words: "And it is to be observed, that the aforesaid King Robert had three sons by Lady Elizabeth, the daughter of Sir Adam More, viz. John, who was afterwards king, Robert Duke of Albany, and the above-mentioned Alexander Earl of Buchan, who was vulgarly called the Wolf of Badenoch. He after that espoused Lady Euphemia, daughter of Hugh Earl of Ross, by whom he had Walter Earl of Athol, and David Earl of Strathern. But, after Queen Euphemia's death, he married the above-mentioned Lady Elizabeth. And thus, by virtue of the unexpectedly arriving matrimony of the *second marriage*, the said brothers were legitimated, namely, John, Robert, and Alexander; because, according to the canons, matrimony following legitimates sons born previous to matrimony, as it exists at large in c. i. and c. x. concerning those who were legitimate sons.

‡ The same, c. 50.

quence begotten by Robert ere he was yet a husband. In this truly consists the whole mistake committed by the continuator of Fordun, in detailing the marriage of Robert. But yet, you will say, he could be informed from his own Fordun, that these children were brought forth of a mother united according to deed. But it has been formerly shown, that the expression of being united bears the import of matrimony. It is therefore just as is reported. But the same groundless notion, which had stood opposed to that genuine but misconceived testimony, concerning the second marriage with Elizabeth, had so sated the mind of the continuator himself, on whose notice it happened to be obtruded, as to have precluded all regard for the words of Fordun, otherwise, than from his own opinion of that entertained by the same. Nor yet has his interpretation swerved far from the true tendency of the words. For he appears to have recognised in the expression to be united, the signification of marriage. But, although he was aware also, that those vocables which are especially appropriate to marriage, contain a doubtful efficacy, so as to represent at one time real marriage, whether just or unjust; at another, by transfer, stolen amours (like as according to Plautus,* and likewise Apuleius,† one may discover the word *marriage* for cohabitation, and according to Anastasius, who composed the ecclesiastical history in the ninth century,‡ *to marry*, for to cohabit), he supposed it to be understood from the nature of the circumstance, in whether acceptance they were to be taken. His motives for not assuming the diction of Fordun concerning the true although improper marriage, were these, because he neither discovered that a divorce had interposed betwixt Robert and Elizabeth, (which, however,

* Cas. II. 8. 50.

† Metamorph. book vii.

‡ P. 175.

must needs have occurred* before, on renouncing her, if so be she had been united in marriage, constituted even in opposition to law, there could be any transition to the other marriage, that is to say, with Euphemia, according to that opinion which he himself had anticipated), nor that there had been any reasonable cause for divorce; nor yet imagined there was likelihood, that Robert had returned again into the pale of marriage with her once rejected by divorce. Wherefore, not unapprised that the word united ranked among the expressions representative of marriage, he deemed it pronounced in a transferred sense, so as to indicate the state of keeping a mistress, which is truly all according to deed, nor contains the slightest particle of law. But he appears imperfectly to have remarked the *according to deed*, appended to this, that these only admit of whatever matters fall under the cognizance of law, and by no means those which are always affected unjustly; and therefore, that marriage according to deed cannot be declared by other than the intrinsic import of marriage, although the appellation of marriage *according to law* can be applicable alone to that sense of the term. Yet, notwithstanding we have said that the continuator recognised the signification of marriage in Fordun's words, *he united to himself according to deed*, he, however, understood these with regard to marriage expressed by metaphor; it was not alleged in relation to mere conjectural license, but even confirmed in terms of express communication delivered by the continuator himself, since he elsewhere† describes those children as *procreated not matrimonially, but in consequence of voluptuous marriage*; he supposed that Fordun employed it to the same purpose, retaining the figure in his own interpre-

* C. 3. x. concerning divorcees.

† Scotich. book xiv. c. 36. Ed. edit.

tation. It assuredly ought not to appear matter of surprise, that the same continuator, influenced by these considerations which we have stated, has ascribed by mistake the same idea to those words, in the manner they were considered to be received by a numerous circle of men, even within his own remembrance, transcendently superior to himself in erudition. In the language thus converted to a meaning manifestly foreign to it, it were matter of wonder, should certain incongruities not be detected in respect to the new supposition. Hence it has appeared meet for the continuator, by retrenching whatever he conjectured superfluously introduced, and by noting wherein he deemed there was miscarriage, to establish Fordun's words in conformity with his own opinion, or else to deface them that they might better square with what he considered the truth; and in like manner, to subjoin a few concerning the extraction of * kings flourishing later than the pages of Fordun have extended, of what father each one had descended.† To wit, he judged that the following should be generally corrected. First, where it had been told, that the children whom the mother united according to deed brought forth, were begotten *out of matrimony*, that is out of proper matrimony, he cancelled the words *out of matrimony*, as redundant. Which words, however, with Fordun, who pronounced her united according to deed, who had been married for the purpose of matrimony, but in violation of the canons, were certainly essential, in order to hint to the reader the reason of the marriage afterwards repeated with the same. But

* The continuator has exhibited the passage of Fordun thus : " This Robert united to himself according to deed one of the daughters of Sir Adam More, of whom he had issue ; her he afterwards, upon obtaining dispensation, allied in matrimony, as will afterwards be stated. Of whom he begot Robert III. ; Robert III. King James I. ; James I. James II., who is at present king."

† The same, book xi. c. 13.

since the continuator understood her united according to deed, who had been kept as a mistress, and that the children sprung from such a woman proceeded out of matrimony, the rehearsal appeared to him unnecessary. On the same principle, he likewise expunged the words *canonically and in the form of the church*, employed by Fordun to contradistinguish the latter marriage from the former, but to himself, who knew only of one marriage betwixt Robert and Elizabeth, almost insignificant. Lastly, the continuator believed there was confusion in the numeral characters representing the year in which the marriage was consummated betwixt them according to the canons. For, as we have said, he was firmly persuaded, from the circumstance, as he had found this denominated Robert's second marriage, that Elizabeth was associated by him as the second wife, also after the death of the other wife Euphemia, who however was in life long subsequent to the year 1349. Wherefore, since he was unacquainted how to correct (for of the year in which Robert had made up the other marriage after Euphemia's decease, he had neither discovered, nor indeed could discover any thing), he omitted the notation of the year, and substituted the words *as will be afterwards stated*, by which he might hand over his reader to those particulars which he himself was about to transmit concerning the first and second marriage of Robert, in a place somewhat farther above that reported by us. With regard to the original that had fallen to the fortune of Elizabeth's children, a new interpretation of the law, by which these had attained the right of legitimate children (for it was well known they lawfully enjoyed this), ought to follow the new opinion conceived by the continuator of Fordun. Therefore he declared, that by virtue of the unexpectedly arriving matrimony of the SECOND MARRIAGE, they were legitimated,

which was consistent with the doctrine of law ; having brought forward the one and the other little head of the canon law to confirm his own tenet. Where, although he inserted mention of the second marriage, it may seem that he actually pointed out to us what had given rise to the cause and authority of his being himself misled. You will say, he was far from manifesting an adept conception of the law, since those owing their existence to incestuous intercourse are unfit to be legitimated by subsequent matrimony. But incest had past unnoticed by him. For neither has Fordun nor Winton tendered any disclosure concerning the relationship or affinity in which Robert and Elizabeth were mutually akin. Fordun has indeed taken notice of the dispensation obtained, so that it could be understood from this that some impediment had existed ; but since there were two kinds of impediments, the one of those which tended to break off marriage, the other of those which indeed prohibited marriage to be constituted, but annulled it not when constituted, of which kind (to produce an instance) are espousals determined previously in relation to the future with one or the other, doubtless the continuator imagined that an impediment of the latter description opposed the marriage of Robert with Elizabeth ; so that when they should thus have it in their power to effect the consummation of marriage together,* he concluded that the children were legitimate, on matrimony afterwards following betwixt the parents. And although he is of opinion that a concubine's children sustain no injury with regard to the entire effect of legitimation, and chiefly with respect to the right of primogeniture, if especially, at least, after that these were born, matrimony has been closed prior to that with

* *Peregrin. de fidei comm.* article xxiv. n. 49.

their mother with another, from whose marriage even legitimate children may be surviving; in this he is backed by the authority of many excellent lawyers.* And as on the authority of writers, as well as what has occurred within the remembrance of men, that the continuator found sufficient defence for palming his own misconception, no person will be greatly struck who will reflect, that in anticipating dispensation for marriage, there was far from being any thing extraordinary to attract the attention of people either by the novelty or difficulty of the matter, since it was certainly neither done contrary to custom, nor, on the Pope afterwards approving of the marriage, was the law's interpretation of the smallest moment: add to this, that the same second marriage of Robert with Elizabeth, in the designation of which the continuator has foundered, preceded the writing of it nearly a hundred years.† It is unquestionably not more to be wondered at, than that he supposed Walter, Earl of Athol, the King's first-born son by Euphemia, deceived, as it seems, in respect of his having ascertained that he was accounted nearer the succession to the throne than the daughter of his brother David, so as to imagine that he was of course the elder brother, unapprized, or surely not bearing this in remembrance, that by an established law the female issue, just as of the other brother, so also of David, was postponed. From what has been said, I presume it appears that the continuator of Fordun has neither fabricated any mis-statement in this business from disaffected feeling towards the imperial house (as some

* There are, beside others who entertain the same sentiment, Covarruvias at book iv. of decretals, in part ii. c. 8. sect. 2. n. 35, and John Voet, at title D. concerning concubines, sect. 11.

† The time he was occupied in writing extended for many years from 1441. See the *Scotichron.* book i. c. 8, and book xvi. c. 16, and c. 26, Edin. edit.

have believed), nor from ignorance either of instruments or the law, but that erring by the law incident to humanity alone, has his relation deviated from the truth. During that period, since the works of authors commonly arrived into the possession of a few men, a mistake, once admitted, remaining long unregarded, and acquiring credit by the remoteness of the time, was suffered quietly to pass. Besides, the continuator had so knit Fordun's words with his own, and had so generally challenged these as belonging to himself, by annexing the conclusion, *as will afterwards be stated*, and by dilating the explication of the royal genealogy as far as his own age, so as to have effectually prevented every one henceforward, who perused both according to himself, from understanding the expressions in the same acceptation. It is not matter of surprise, therefore, if John Mair,* who next after him entered upon the task of writing a history (which he too about the year 1518 has in every respect faithfully executed), has presented us with a description of the whole circumstance imitated from him.† We have now seen how the fiction proceeded: our remarks will be farther employed in tracing its progress. Immediately after Mair followed Hector Boece, a man excessively audacious in writing history with regard to imposing any forgery. In the year 1521, when he composed a book on the lives of the Aberdeen bishops, he seems to have determined concerning the period of Euphemia's demise, and of Robert's second marriage with Elizabeth, by following pre-

* Because he had misled none in the shape of inconsistent narration, Sir J. Dalrymple (in the preface to his Hist. Col. p. 40) considers with good reason, that with Mair it was owing to a mistake of the compositor, and instead of *for after Queen Elizabeth's decease, he took this Euphemia to wife*, he recommended to be read, *for after Queen Euphemia's death, he took this Elizabeth*, &c.

† In his History of Great Britain, book iv. c. 17, and book vi. c. 6.

cisely in the wake of the opinion entertained by the continuator of Fordun. But although he appears even then to have heard something by report or hearsay touching the succession to the sceptre, ordained on account of a law instituted by Robert, supposing that this law was enacted for the sake of Elizabeth's sons, in order that they should be esteemed more eligible than Euphemia's children as it regarded the right to the crown, he himself has trumped up a strange story in relation to the passing of this. For he writes,* that Alexander, bishop of Aberdeen, departed this life in the twelfth year of the reign of Robert II., and that Adam of Tynnyngham, a man distinguished for singular prudence and integrity of manners, was elected in his stead. That this personage, when he cut a most illustrious figure, by ranking high both in the good graces of the king and estimation of the nobles, and was kept wholly occupied in the conducting of public affairs, began to fall under the king's suspicion, owing to the malice of certain detractors and pickthanks, as not having been unanimous in passing the law about the succession of the kings in common with certain of the peers (who were dissatisfied with this law). But when Adam, relying on his own innocence, to relieve the king from distrust, had withdrawn to his diocese, there resolved to pass the residue of his life, that Alexander, a bastard of the king, in order to take measures for avenging the paternal wrong, after associating to himself a gang of abandoned villains, made a descent on the lands, drove off the live property, and pillaged the whole substance belonging to the bishop, and also appropriated the second tithes as his own that accrued by way of royal donation: that he was long exasperated with the keenest rage there-

* In the Lives of the Bishops of Aberdeen, fol. 8 and 9.

fore, when none had the boldness to take the lists as redresser of his grievances, under dread of incurring the royal displeasure. At last, when the same had been excommunicated by the bishop, who had in vain repeatedly complained to the king about the wrongs which had been brought upon him, that he posted to Aberdeen for the purpose of murdering the bishop; and being prevailed upon, after much altercation, scarcely refrained from perpetrating such an atrocious deed.* That the king, irritated by the report of this circumstance, having summoned his son to his presence, threw him into imprisonment; and after making reparation for the damage sustained by the church of Aberdeen, delivered Adam from all apprehension, and afterwards esteemed him as a venerated parent among the chief counsellors. What gave occasion to the framing of the whole of this fable was as follows: That Adam being ordained† bishop of Aberdeen in the year 1381, and in the eleventh of the reign of Robert II., dissensions immediately followed in his diocese. From the munificence of the kings of Scotland in former times, the bishops of Aberdeen had been honoured with the right of receiving the tenth part of the revenues arising from the crown estates (the second tithes they style it) within the territories of the vice-earldoms of Aberdeen and Banff. Within these territories were the lands of Fermartine,

* The same Boece, in the Hist. of Scot. book xvi. writes, that Alexander, after burning the cathedral of Moray, because the bishop of Moray had not been disposed to consent to his iniquitous demands, since it would have proved highly detrimental to the church, hurried on to Aberdeen with the intent of murdering Adam, pretending that he was a partisan and author with the prelate of Moray in not complying with his desire. But that Elgin cathedral was burnt on the 17th day of June 1391, certainly after the father's death, appears from the chartulary of the same church, fol. 62.

† That he was ordained in that year, is inferred from the chartulary of Aberdeen, fol. 68, 59, 92, and 93.

that had anciently belonged to the crown patrimony, the property of which King Robert had transferred to his eldest son John, and presented by John again to James of Lindsay, Lord of Crawford, the King's sister's son, who was at that period in possession of them. When he maintained that he held the demesne with the most perfect right, and was exempted from the payment of the second tithes, his peasantry and factor refusing to pay Adam his due, were excommunicated by him. In like manner, when he, I know not on what account, asserted as his peculiar right the lands of Brass, appertaining to the bishop, stating that he himself was invested with that concern, Ferchard Macintosh had harassed the inhabitants of these lands by grievous outrages committed by himself and friends, and was still so intimidating their minds by his menaces, and the alarm he inspired, that abandoning their homes, they took refuge by flight. The bishop, on the seventh day of June of the year 1382, complained of these circumstances to the king, who was then specially celebrating the national assembly at Perth. There forthwith in the same assembly, James of Lindsay being also present, the king signified that he neither ought, nor even desired to alienate from the bishop the second tithes of the lands of Fermartine, granted by way of donation from himself to his son, or to violate his right in any particular. John likewise made attestation, that in the concession of these lands, which he himself had presented to James, he understood the right of the second tithes excepted and reserved for the bishop. And soon after, in the same year, James' people gave satisfaction to the bishop, and were restored by him to their sacred privileges. The bishop likewise, in the same assembly, for the purpose of securing the judgment that had been pronounced by due provision, if at any time Ferchard should

feel inclined to dispute his right with him, carried back as well the crown letters, as John's, the king's eldest son (who during that period, as also afterwards,* acted as substitute in superintending the imperial jurisdiction), in which Alexander, lord of Badenoch, also son of the king (he then presided as regent chiefly over the districts situated towards the north), and the vice-earl of Inverness, received injunctions to restore the inhabitants of the lands of Brass to a state of security, from the tyrannical usage of Ferchard, who was debarred from this by the provision for protecting them from annoyance. These remain fully recorded in the chartulary of Aberdeen,† the privilege of inspecting which was without question adjudged to Boece, being himself a collegiate of the Aberdeen canons, and at the appointment of his own bishop,‡ adorning the history of the bishops of Aberdeen. The king, moreover, went to Inverness immediately after closing the assembly at Perth, where, about the latter end of the month of July in the year 1382,§ he created the son Alexander earl of Buchan too, a memorable indication that he had all along faithfully discharged the important trust committed to him. But they afterwards fell into disrepute with Boece, who now, nearly about the year 1525, was composing a history of the Caledonians, which we have mentioned was besides written by him. For a copy of that law had been put into his hands with regard to regulat-

* Statute of Robert II. chap. 17.

† Fol. 55, 56, 57, 58, 59, 91, and 92.

‡ Boece's Dedicatory Epist. to the Lives of the Aberdeen Bishops.

§ Two charters (which are extant in the public register) written at Inverness by King Robert II. to Alexander himself, bear ample testimony to this occurrence: in one of which, on the 22d of July in the *t*— year of this reign (the extremity of the parchment in which the remainder of the word *twelfth* had been situated being now effaced), Alexander is styled *lord of Badenoch*; in the other, on the 25th day of the same month, and in like manner in the *twelfth* year of the paternal reign, the same is addressed as *Earl of Buchan*.

ing the succession of the kings, solemnly ordained by Robert in the third year of his reign. And I am far from being rash in giving it as my opinion, that the words of this law came under his review. I presume you will safely credit that, if you will examine what has been written by himself concerning the law in question.* For he has imitated the whole purport of it so graphically, so completely, that even after having forthwith perused and thoroughly understood the law itself, we will find that not another word could have been added. It is to be particularly observed, that, apprised by this law, he has rectified the error into which earlier writers were in the habit of falling, affirming Walter the elder, but David the younger of the king's sons by Euphemia, and has declared David the elder of these.† Since his own translator, Bellenden, supposed he had fallen into a mistake in that point, he revived the ancient error, also attributing to Walter the priority of substitution betwixt

* Boece's words : " In the third year of his reign, Robert instituted the manner of succession by the following stipulation, namely, that John should first of all succeed ; after whose decease without male issue, Robert ; if he likewise died without a son, Alexander should be exalted in room of him ; on which account, if by a like fortune he should depart this life, leaving no son behind, then David ; but if the same destiny followed him too, then the succession to the throne would devolve to Walter. Yet, as the affairs of mortals are fleeting and transitory, if of all these no male offspring should happen to be surviving, the individual who nearest derived his descent from royal blood, whosoever he might be, would succeed to the imperial sway of Scotland. This was both transacted in a public assembly of the nobles of the realm, celebrated at Scone, and solemnly sworn to by all, that they would perpetually preserve and defend that constitution."

† Boece, in the History of Scotland, book xvi. writes, that Robert had one daughter besides by Euphemia, also Euphemia by name, whom James Douglass, the eldest son of William Earl of Douglass, married. How this was accomplished, your attention is now solicited. Winton in his Chronicle, c. 182, or book ix. chap. 1. (where Robert's succession to the throne is detailed), thus sung :

Euphemia's two sons, when he put this very law on record: from whom the same blunder crept into others. In consideration that Boece, therefore, perceived by this law that the succession to the sceptre had been already destined to Elizabeth's children in the third year of the paternal reign, (as he was of opinion according to the authority of annals, that at length, after Euphemia's demise, they arrived at legitimacy in consequence of the marriage

Sa tretit that, that his * sone wed
The kingis dochter † of lauchful bed,
And he suld til his lord ay do
Honour, that him esserit to.

* Of William Earl of Douglass.

† An old MS. volume in the Advocates' Library, Edinburgh, has it so. But another volume, also of ancient date, in the same library, for **of lauchful bed** (*of lawful bed*), the writing is read **and bring to bed** (*and bring to bed*).

The continuator of Fordun has inserted this in his work, (book xiv. c. 36) rendered as follows: *That it was readily treated was sufficiently apparent, as James of Douglass, his first-born and heir, united to himself matrimonially, a daughter of the said Lord Robert, the future king, begotten of lawful bed, and the Earl of Douglass himself, together with his son, humbly submitted themselves and succumbed to the king.* In which place Winton (who had known that the children both of Elizabeth and Euphemia were respectively generated of lawful bed) has introduced the words **of lauchful bed**, therefore, in order to satisfy the rhythmical law, nor otherwise superfluous, because Robert had begotten several illegitimate children. Perhaps the continuator of Fordun, by tacit interpretation, forced the same words to correspond with the purport of his own error. But Boece, trusting to that evidence, has audaciously and unreservedly declared, that Euphemia's daughter was married to James Douglass; and, because she was unnamed, he assigned her that of Euphemia. That is to say, could she have received the name of any one in preference to that of her own mother. But yet he has been unluckily out in his conjecture. For, that she was by real name designated Isabella, is evident from a charter granted by her brother, Robert III. to Edmundstoun, (whom she had married after the death of Douglass), in his own right Lord of Ednam. Nor is it shewn that Euphemia had a daughter, by any other communication than at Winton's place, which we have just now rehearsed, assuredly not at all valid for demonstrating that.

of their parents,) he likewise judged it requisite for him to write that Euphemia died, and that Elizabeth became the wife of Robert in the same year.* What shift could he make, therefore, in that place of the same annals, which reports that Euphemia departed this life in the year 1387? He imagined that the text was there erroneously corrupted, and that for Euphemia the name of Elizabeth ought to be read. For which reason he himself wrote,† that Queen Elizabeth died about that period. Besides, deeming the same year in which the succession to the throne was established, as also propitious in advancing the children of each wife in honour and riches, he described that they then obtained these dignities and splendid possessions, bestowed upon them by their father, which it was manifest they were previously in the enjoyment of, and that the actual period of imparting which was elapsed, reciting very finely (in his own estimation) as facts what arose merely from conjecture.‡ You will object, that in the law concerning the succession to the crown, John, Robert, and Alexander, are spoken of as descended of the first wife: I have concluded, on the contrary, from Boece, who would make no such declaration, although he had seen the same law, that their mother was the second wife. And truly, that he had a most golden opportunity presented him for clearing away all blemish from history in this particular, is perfectly well founded. But he rather preferred to make the testimony of the law tally with the error prevailing in annals, than to correct the one from the other. And I anticipate a twofold way by which he came to this resolution. He either imagined the wife pronounced *as first* in the law by reason of fictitious right, protracting matrimony back-

* Hist. of Scot. xvi.

† The same.

‡ The same.

wards to the period of the nativity of the legitimate children.* Or he suspected that the name of the *first* and *second* in his own copy of the law, had by oversight of the transcriber exchanged places: to which mode of emendation we lately saw Boece was no stranger. There is another circumstance too, which we ought here to explain. The law concerning the succession to the sceptre evinces it was written on the fourth of April, that is, on the forty-first day of the third year that Robert had commenced his reign: for it is manifest that his predecessor David departed this life on the 22d of February.† Now, if Boece had seen that law, he might have also observed, that previous to the 4th of April that year, there was but a very limited compass of time for Euphemia's death, the marriage of Elizabeth, and also the parliament which was afterwards held, (concerning which parliament the law itself makes mention) in which was proclaimed the declaration of John's right in regard to obtaining the succession to the throne. But here also the matter rests secure; for Boece in making enumeration of the days (if so be he has at all had recourse to this), appears as having followed the authority of Froissart, who had declared the day of David's decease the 7th of May.‡ Such have been the circumstances advanced with regard to the writings of Boece, neither a careful nor sufficiently creditable author. Chambers, Lord of Ormond, adopted these as received from him, to be transmitted by himself too in silence and dissimulation: § but Leslie afterwards unveiled

* Jo. Voet at the title D. on concubines, sect. ii.

† Scotichron. vol. iv. p. 1059. Hearne's edit.

‡ Hist. vol. i. c. 313. Sauvages' edit.

§ In his epitome of the History of the Kings of France, England, and Scotland, fol. 173.

and refuted them to us.* Nor has Buchanan been free from the common error. Their mistake (as has been very properly animadverted upon by Sir James Dalrymple,†) has also served to augment the pile of fable, who by blending together matters absolutely different, have confounded Euphemia de Morham, who had been married to John Giffard about the age of Robert Seneschal, with Elizabeth More. Yielding too much credulity to what they narrated, Buchanan has written that Elizabeth was bestowed in marriage to Giffard, before that to Robert. And then, having acquired its full maturity, the fable became universally diffused, and found its way into the very palaces of our kings. At length, in the reign of Charles I., Sir Lewis Stewart, a lawyer of great renown at that time, extricated from its concealment the truth that had been already lurking for so long a period, having discovered a great many public acts and deeds, which verified Elizabeth the first, Euphemia the second wife of King Robert II. Besides several men of the highest and most distinguished reputation in learning,‡ commendably devoted their zeal and application afterwards, in collecting and giving publicity to these, and in like manner to other documents relating to the same circumstance, and also illustrating them by the brightness of their own remarks.

* Concerning the achievements of the Scots, book vii.

† In the preface to his *Hist. Coll.* p. 38.

‡ Whom that most learned gentleman, Thomas Ruddiman, almost enumerates in his annotations to *Buchanan's History of Scotland*, book ix. p. 432, himself also a very strenuous champion of the untainted truth and fidelity of these documents.

REMARKS
ON
MR. INNES'S CRITICAL ESSAY
ON THE
ANCIENT INHABITANTS
OF THE
NORTHERN PARTS OF BRITAIN, OR SCOTLAND.*

IF we observe the accounts that have been given of the origin of the different nations in the world, we may see the authors that have transmitted them, as it were, vying with one another, to raise the settlement of their own country to very ancient times, and to derive themselves from a long pedigree of illustrious predecessors; and it is not to be thought strange, that their readers have not been over scrupulous in examining nicely into the truth or probability of such accounts, as they thought tended much to the honour of their country.

At present it is very commendable to see, as in many other countries, so particularly among the Scots, a disposition to enquire honestly into their origin, and to renounce all accounts that appear fabulous, and may be found to be inconsistent with the truth of history, how much soever these accounts might flatter a conceit of an honourable descent.

In this Mr. Innes has remarkably distinguished himself; after having by indefatigable pains searched into every thing which he thought could give light into the

* EDINBURGH: printed by Tho. and Wal. Ruddimans. 1733. (4to, pp. 32.)

time of the settlement of the Scots in Britain, and of their being first governed by Scottish kings, he, not regarding the censure which he might incur from prejudicated minds, has been bold to advance, contrary to the prevailing opinion of his countrymen, that their nation came not into Britain, probably before the Incarnation, and that they had no king before the fifth or six age after Christ.

The opinion of the author's capacity and integrity prompted every body, especially the gentlemen of his own country, to read his essay, touching so curious and interesting a question.

When I heard that many, who had perused his book, declared themselves satisfied with his performance, so that they inclined to be of his opinion; so soon as I could find opportunity and leisure, I set about the reading of it, almost persuaded that I should find the like satisfaction that others had found.

It was not without great reluctancy and fear of exposing my judgment, that I ventured to say among friends, that Mr. Innes appeared to me in his essay to have suffered his honest and laudable intention of inquiring impartially, to transport him too far; insomuch, that out of fear of patronizing a vulgar error, he has, without sufficient reason determined against a received tradition, which for any thing he has proved to the contrary, may still be true.

My design is not at all to enter into the question about the antiquity of the settlement, and monarchical government of the Scots nation, but only to consider whether the arguments that Mr. Innes makes use of to establish his opinion, are so clear and weighty, that every unbiassed and unprejudiced mind ought to renounce the hitherto received opinion, as evidently false.

The use of letters not having been introduced into these parts till the Romans had been settled there some time, and perhaps not till Christianity had been received, it is not to be expected that the Scots can be able to prove their origin and settlement by ancient written records, near to the time that they pretend to have been settled there first. Tradition is the only way by which they could convey down their history.

It must be owned that tradition cannot be depended on so safely as written monuments: but yet it is not to be slighted when the case does not admit of any other proof, and there cannot be brought any good authority to the contrary.

In such cases, on other occasions, Mr. Innes himself shows and pleads for a due regard to tradition. When he is speaking of the chronicle of the Picts, p. 109, 110, he says thus, “We give it as an ancient monument of history—containing the tradition of their settlement in Britain, before whom there is no memory of any known inhabitants in the north of Britain, nor any certain epoch of their beginning or settlement there: but reaching up to the dark ages of the depth of antiquity, they may, for what any man can show to the contrary, contend with any nation in Europe; and even as to the number of their seventy kings, I do not see but it might have been preserved by tradition without the use of letters.”

Why will he not make the same allowance for the tradition about the settlement of the Scots? When he does not produce any positive authority for a later settlement; yea, even confesses that there cannot be fixed any dates or epochs of their first settlement in Britain. “I do not pretend,” (says he,) p. 185, “there can be settled any fixed dates or epochs of the first settlement of the Scots in Britain, or indeed of any northern nation, before they

had the use of letters." And further he owns, that after the use of letters, the oldest authors who wrote of their settlement believed them to have been in Britain before the Incarnation. "Bede," says he, p. 702, (who wrote in the eighth age) "seems to have believed that the Scots were settled before the Incarnation, not only in Ireland, but even in Britain. And Nennius also, a British writer of the ninth age, seems to place the coming of the Scots to Dalriel (the ancient name of their possessions in Britain) about five hundred years before the Incarnation."

But though Mr. Innes could not produce any author fixing the time of the Scots coming first into Britain, and acknowledges that the time cannot be fixed; yet he thinks one may attain to the knowledge of it by guessing; finding out, from the state of affairs in the world, a proper time when some people, being sore pinched at home, might flee from their own country, and seek a refuge in these northern islands; and that there was such a state of affairs about the time of the Incarnation.

P. 541. He gives an account how it might have happened. He says it is probable that the people of Scandia and the northern parts of the Continent, being pinched by the Romans about Augustus's time, when they were at their height of empire, would try first to settle in the most northern parts of Britain; but being repulsed by the warlike Caledonians, they removed to Ireland.

After they had been some time in Ireland, he allows them to have sent a colony to Scotland.

Mr. Innes was under a necessity of beating them off from the Scottish coast in their first attempt: he could not bring himself to believe that they could remain five hundred years without kings, and he far less hoped to persuade others of it: but having confined them during

some ages in Ireland, he thought fit to bring them over at a time that might suit with Fergus the son of Erc's beginning a monarchy there.

This he imagined to be a probable account of their coming in. Indeed he does not affirm positively that it was so ; but if we are not satisfied with this way, he has found an equal probability from like circumstances of the people in the northern extremities of Spain, in reducing of whom Augustus found great difficulty, that they may have come from those parts. And this way he accounts for their being called Scots, because the inhabitants of these parts being descended of the Celtes, or Scyths, the Britains upon their first appearance, from their arms and their manners conformable to these people, might give them the name of Scyth, or Y-scot.

They must be very easy of belief that are satisfied with such accounts : may be the people of Scandia and other northern countries, being distressed by the Romans about the time of the Incarnation fled from their own country, and tried to settle in the northern parts of Britain ; and when they were repulsed by the inhabitants of these parts, they went to Ireland, and, not meeting with so vigorous opposition there, took possession of that country ; and after some time forced their way to Britain, from which they had been beaten before : Or, if you are not pleased with this, it may be that the people in the northern parts of Spain, being about the same time very unwilling to submit to Augustus, tried to settle in other places, such as Ireland and the northern parts of Britain. Can any man, I say, think this a just account of the first settlement of the Scots ? Mr. Innes does not pretend to name any author that says that about that time it did happen so : And even admitting that some of these oppressed people had at that time retired thither, for which however he brings

no proof; yet it would not follow from thence, that never any had attempted such migrations before. Livy, book 5, chap. 34, says, that in the reign of Tarquinius Priscus, which was about 600 years before Christ, Ambigatus king of the Celtes, finding it hard to govern the country, by reason of the great swarms of people; that he might ease the kingdom of part of that excessive multitude, sent out two strong colonies under his sister's sons, Bellovesus and Sigovesus, the one towards the north, the other towards the south, to seek out new habitations for themselves. Now, I think, with at least as much, if not more reason, we may from this authority say, that it is probable that the Celtes, at this time when we are told by Livy they were obliged to seek out a new habitation, came to settle in these northern islands 600 years before the Incarnation. This would agree better with the common tradition about their settlement: And Mr. Innes owns, that the northern nations had been often discharging their country of numbers of people, with which they were overstocked long before Augustus's time.

It is not my business at present to determine the question about the precise time of their passing into Britain; but it is plain, that the circumstances of affairs in the Continent, long before Augustus's time, engaged the people in several quarters to quit their own country, and seek out new habitations, where they might be more at large and at their ease. Now, I would ask Mr. Innes, why some might not pass into Britain when they were pinched in those days, as well as when they were straitened in Augustus's time?

I do not believe he can offer at any solid reason why they might not; and the only cause of denying it is, that it does not suit with his scheme, for the proof of which he has brought nothing but may-be's.

AS TO THE RACE OF KINGS.

Whereas it has been the common opinion in Scotland, that the reign of the Scots kings in Britain begun some ages before the Incarnation, Mr. Innes positively affirms, that they had no king till the fifth or sixth age after Christ, and that Fergus the son of Erc was their first king.

P. 667. He says thus: "All the remains without exception, which we have of our ancient histories or records, written, extracted, or abridged from them; far from authorising Fordon's new scheme, do all unanimously contradict it, and agree that Fergus the son of Erc was the first king of the Scots in Britain."

Again, p. 679. "I dare confidently affirm, that in no genuine writer before the year 1291, and our contests with Edward I. about 1300, will be found any certain account of the first forty kings, or of any sovereign king at all of the Scots in Britain before Fergus."

Such bold and peremptory assertions are very apt to surprise a reader, and easily engage his assent, especially coming from an author of great industry, and who has the reputation of a man of candour and integrity.

For my own part, I could hardly doubt of his bringing convincing evidence for the proof of what he so confidently asserted; only I thought, that to be rationally convinced, one must examine the justness and force of an author's arguments, and not submit blindly to any man's authority, whatever opinion he may have of his learning and honesty.

And now after reading over his essay, having weighed his arguments with all the attention I could use, I cannot say that I find my expectation answered, nor do I see

that he has any ways proved his point ; and these bold assertions of his appear to be very ill founded.

For the satisfaction of his readers, he has annexed to his essay, by way of appendix, the several extracts of the records from which he has taken his proofs.

And it is plain, that several of these very abstracts do in most express terms affirm, that the Scots were settled, and governed by their own kings in Britain long before the Incarnation ; and these of them that speak of Fergus the son of Erc, who reigned about 500 years after the Incarnation, as first king, do not say in the terms that Mr. Innes alleges, that he was the first king of the Scottish race, or that he was absolutely the first of the Scots that did reign ; but only the first that reigned beyond Drumalban ; which does not hinder but others may have reigned before him, though in smaller territories, only he was the first in the series of those that reigned after the dominions were enlarged.

This will appear by considering the several abstracts in the appendix.

NUMBER I.

Is intituled, *de situ Albanicæ, &c.* Mr. Innes believes the author of this piece is not a Scotsman ; therefore he does not insist on the authority of it, lest his countrymen should except against a foreigner, as not a proper evidence. But since he thinks the passage in this extract to be very clear as to the point, and because it is precisely in the same terms with what is found in the extract Num. 4. which he urges as not liable to that exception, it is fit to examine it.

The passage upon which Mr. Innes founds his evidence is in the 9th paragraph, in these terms : *Fergus filius Eric*

fuit primus qui de sèmine Chonare suscepit regnum Albanie, i. e. à monte Drunalban usque ad mare Hibernie et Inchevall, &c. That is, Fergus the son of Eric was the first who of the seed of Chonare possessed the kingdom of Albany (or reigned over Albany;) that is to say, from the hill of Brunalban to the sea of Ireland and Inchevall. The kings of Fergus's seed reigned in Brunalban or Brunhere till Alpin son of Eoachal. Kined son of Alpin, first of the Scots, reigned sixteen years happily in Pictland.

Now this expression, "Fergus the son of Eric was the first who of the seed of Chonare* reigned from the hill of Brunalban," naturally implies that some of the seed of Chonare had reigned before Fergus, but that none of his predecessors had enjoyed so large territories. This sense is confirmed from the author's manner of writing; for it follows immediately, "The seed of Fergus reigned there (i. e. from Brunalban to Inchevall) till Alpin, whose son reigned in Pictland;" which in other terms is, "Kined the son of Alpin was the first of the Scots who of the seed of Fergus reigned in Pictland." As this implies that there were of the seed of Fergus that reigned before Kined, though Kined was the first that reigned in Pictland; so in like manner the other expression implies, that there were of the seed of Chonare who had reigned before Fergus, but Fergus was the first who reigned after the kingdom was enlarged, and reached from Brunalban to Inchevall.

From what precedes in this extract, the author seems to say, that the kingdom before Fergus was confined to Argile. He tells that Albania was divided by seven

* In the authentic Genealogy of the Scottish Kings, Chonare is reckoned the one-and-twentieth from Fergus son of Ferchar.

brothers into seven kingdoms; in the seventh paragraph he says the seventh kingdom was Argile. And that he meant that this was the kingdom of the Scots, appears from what he says in the eighth paragraph, that it is called Argathelia or Arregathel, as if one said *Margo Scotorum*, the march or bounds of the Scots; because (as he adds) all the Irish and Scots were called Gatheili, as descending from Gaithilglas. Then in the same paragraph he says the Scots dwelt there at first after their return from Ireland. By the bye, what he says of their return from Ireland seems to favour Fordon's scheme, as Mr. Innes calls it.

So that this extract is far from proving, so clearly as Mr. Innes alleges, that Fergus the son of Erc was absolutely the first of the Scottish race that reigned in any part of Britain.

By no rule of speech can one from this expression, "Fergus the son of Erc was the first who of the seed of Chonare reigned in Albany, i. e. from the Hill of Dru-malban," infer that this Fergus was absolutely the first that reigned in Albany; no more than what follows in the same paragraph, "Kined the son of Alpin, first of the Scots, reigned in Pictland," can signify that the Scots had no King before Kined; or, if we should say, "James the son of Mary was the first who of the race of Stuarts reigned in England," one could conclude that none of the Stuarts had reigned any where before James.

NUMBER II.

Contains only a Catalogue of the kings of the Picts.

NUMBER III.

Is a short account of twelve kings from the uniting of the kingdom of the Picts.

It begins, “Kined first of the Scots ruled happily that Pictland.”

This shows our histories distinguished the reigns of the kings into several periods; and in reckoning, they called him who stood in the beginning of the series the *first*, but understood it only *first* of that series. As here Kined is called *first* of the Scots, but the meaning is only of those that ruled Pictland; the authors did not apprehend, that their readers were in any hazard of mistaking their meaning, when they had determined the epocha: So in other extracts, when Fergus the son of Erc is called *first*, the meaning is only, *first* in the series of those that reigned beyond Brunalban, or (as one may collect from the first extract) of those that reigned after the Scots returned from Ireland. This does not hinder but there might be, but rather implies that there were (as has been commonly believed) still other kings that preceded them.

NUMBER IV.

The title of this extract is, *Chronicles of Scots Kings for 314 years.*

Nobody will say that this title promises a complete list of the Scots kings, or that it is necessarily to be understood of the first 314 years that they reigned, although Mr. Innes reckons that it is so; and he thinks that his assertion about the beginning of the Scottish monarchy is clearly proved from the first words of the extract.

It begins, says he, with these words, “That Fergus

the son of Erc was the first of the Scottish race ; that he reigned from Drumalban to Inchegall.”*

The author says indeed, “ That he was the first that reigned from Drumalban ;” but not “ that he was the *first* of the Scottish race.”

The extract begins precisely in these terms : “ Fergus the son of Erc was the first who of the seed of Chonare took possession of (or reigned in) the kingdom of Albany, i. e. from the Hill of Drumalban to the sea of Ireland and Inchegall.”

I am unwilling to suspect Mr. Innes’s candour, but at least his want of attention cannot be excused. I will appeal to himself, if there is not a great difference between these two expressions, “ Fergus the son of Erc was the first of the Scottish race ; he reigned from Drumalban to Inchegall,” which is the way he represents it, and the terms of the author, which are, “ Fergus the son of Erc was the first who reigned from Drumalban to Inchegall ;” just as there is between these two, “ Kined was the first of the Scots who reigned in Pictland,” and “ Kined was the first of the Scots race ; he reigned in Pictland.”

The words in this extract being exactly the same with those in the first of the situation of Albany, it is needless to repeat what was said there.

But it is remarkable, that as the title of this extract did not promise a complete list of Scottish kings, but only a chronicle of Scottish kings for 314 years, which is the space of time from Fergus the son of Erc, who reigned first from Drumalban to Inchegall, till Kined the son of Alpin ; so the author takes notice, that from Kined to

* In the copy which I read, it is precisely thus in English ; whereas in these that I have seen since, Mr. Innes has set down the words in Latin, as they are in the extracts.

the first year of William, the 49th king from Fergus son of Erc, it is 315 years. And to let see that these two periods, from Fergus son of Erc to Kined, and from Kined to William, do not contain the whole race of the Scottish kings; when he has carried back the genealogy from William to Kined, and from Kined to Fergus son of Erc, he still goes on from this Fergus to the other Fergus, or (as he is called there) Forgo son of Fera-daigh, &c. I know Mr. Innes will say, that this is only the genealogy of the family, and that none of them before Fergus the son of Erc were kings; but for any thing that is said to the contrary by that extract, they may have been kings: When they come up to Fergus the son of Erc, they do not distinguish, and say that the kings went no further, and that what precedes is only the genealogy of a private family, from which Fergus was descended.

'Tis true the genealogy here is carried up to Simon Briet, but the common accounts go no further than Fergus son of Ferchar. Fordon and others that have searched into the remains of our history give up the rest as fabulous, or at least not concerned in the royal line: And Mr. Innes confesses (as shall be shown afterwards), that the English, Irish, and Scottish writers in all ages, south, north, and Highlands, do agree in the genealogy from that Fergus.

But it is not much to be wondered at, that Mr. Innes should think that these extracts prove that Fergus the son of Erc was the first king of the Scots race, since they begin with him, and do not expressly make mention that there were any that preceded him. His zeal to establish this point, makes him find it, even in authors that employ whole treatises to prove that they had kings of their own, long before the Incarnation; accordingly, he brings Fordon himself as his fourth evidence, to prove that Fergus

the son of Erc was the first king of the Scottish race ; notwithstanding that he confesses that Fordon, throughout his second Book, endeavours to shew that the monarchy began under Fergus the son of Ferchar, and that between this Fergus, and the other who reigned in the fifth or sixth age, there intervened 45 kings. He says indeed, p. 672, “ This may appear a strange paradox,” yet he does not doubt to make it out ; in order to which, he says, in these terms, p. 673, “ John Fordon, in his searches for memorials of our History, had no doubt seen these abstracts of our ancient chronicles I have quoted above, or others equivalent, and read in them the words I set down, viz. that Fergus son of Erc was the first king of the Scottish race ; that he reigned from Drumalban to Inchegall ; and that he reigned only three years ; which are the words of the extracts above-mentioned ; but if they be let pass without a commentary, and be taken in their literal meaning, they are enough to subvert the whole fabric of Fordon’s 45 kings before Fergus the son of Erc,” &c.

The substance of what follows, is, That to avoid that inconveniency Fordon supposes a subversion of the monarchy, and a restoration of it under Fergus the son of Erc, and that he reigned sixteen years, and in the three last he reigned beyond Drumalban in the country of the Picts, from the hills to the Scottish seas ; but that this gloss, after all the pains he has taken, cannot hide the conformity of his expressions with what is said in the extracts ; and that it will appear to any unprejudiced reader, that he agrees with them.

Then he subjoins Fordon’s words, *Fergustus rex [scdecim annis] regnavit in Scotia [quorum tribus ultimis] ultra Dennalban, hoc est, ultra dorsum Albaniae ; primus regum Scotici generis [in terra Pictorum] à montibus ad mare*

[*Scoticum.*] What is inclosed within the crotchets he calls Fordon's interpolations, to adapt what he has found recorded about Fergus to his own system.

This is all the proof he brings of Fordon's being on his side. He says, "That even while he is endeavouring to establish an opposite scheme, he has inadvertently blabbed out the truth, and let such expressions escape from him as agree with the other extracts, and entirely overthrow his own scheme."

Mr. Innes must pardon his reader if he does not think himself obliged to take things barely on his word, nor without examination, to assent to whatever he has boldly and peremptorily asserted.

It is indeed very probable that Fordon did see these ancient extracts which Mr. Innes quotes in his Essay, which he has annexed by way of appendix to it: but it is very certain, that he did not read in them the words which Mr. Innes sets down, viz. "that Fergus the son of Erc was the first king of the Scottish race; that he reigned from Drumalbayn to Incheval, and that he reigned only three years:" and unless Mr. Innes has seen other extracts than these in the appendix, I may confidently say, that he himself did not see them; for these words, "Fergus the son of Erc was the first king of the Scottish race," are not in these extracts; but these, "Fergus the son of Erc was the first who of the seed of Chonare reigned in Albany, from the hill of Brunalban, to the sea of Ireland and Incheval." Neither is it said in any of these extracts, that he reigned only three years, but that he reigned three years beyond Drumalban.

And this does not at all contradict what Fordon says of Fergus son of Erc's reigning sixteen years. The extracts take only notice of the space that he reigned

beyond Brunalban ; whereas Fordon gives the full number of years of his reign, and tells, that he reigned only the three last beyond Dennialban or Brunalban.

In like manner we see the extracts, Numb. 3, Numb. 4, and Numb. 5, say that Kined reigned sixteen years ; but it appears they mean only the time that he reigned in Pictland ; for notwithstanding of reckoning so in the extract, Numb. 3, it is said that he reigned two years in Dalrieta before he came to Pictland : and in the extract, Numb. 6, in chap. 6, which contains a chronology from Fergus the son of Erc, it is said of Kined, that he reigned seven years ; but that this is to be understood only of the time that he reigned in his ancient territories, is plain from what is said, chap. 7th, “ Kined, after he had beat out, or entirely put to flight the Picts, he continued to reign twice eight years.”

Though Mr. Innes met with no extracts that mentioned more than three years of Fergus’s reign, Fordon may have met with records from which he learned that he had reigned thirteen years before he got into the country of the Picts, and that he reigned three years after that.

Mr. Innes in his essay, p. 145, says, “ It is not to be doubted but Fordon or such others of our writers that wrote after him in the fourteenth or fifteenth age, had before them more ancient histories, which might have afforded greater light into the British affairs.”

NUMBER V.

The title of this extract is first in general, names of Scottish and Pictish kings. Next, a series of Scottish kings ; (which is only of a certain number of kings, and for a certain time, as appears plainly from what follows in the title) an account of 23 kings in 327 years, 3 months.

And then is subjoined a list of the kings from Fergus the son of Erc to Alpin. This evidently is only the series of the kings that reigned after the dominions were extended beyond Drumalban, till they conquered Pictland.

After this series follows a new title, viz. Names of Pictish Kings; to which is subjoined a catalogue of the Kings of the Picts.

After the catalogue of Pictish kings, follows a new series of Scottish kings from a new epocha, viz. from the uniting of Pictland: It begins from Kined, and is carried down to Alexander III.

Now the terms of these titles do not promise a complete list of all the Scottish kings, but only of certain Epochas; and one cannot infer from hence, that there were none that preceded these that are set down here. And the words with which this Extract begins, viz. "Fergus the son of Erc first reigned in Scotland beyond Drumalban," lead one naturally to think what Fordon has added to the passage quoted above, "That none of his predecessors had been master so far before him." He says indeed, as Mr. Innes observes, that he has not discovered whether they came to possess it by the sword, or any other way: But that says nothing to favour Mr. Innes's system.

NUMBER VI.

This extract contains a short Scottish chronicle in Latin in rhyme. The title of it is, *Breve chronicon Scoticum, sive chronicon rythmicum.*

There is indeed something in this chronicle, which at first sight seems to favour the opinion of Fergus the son of Erc, being the first of the Scottish race that reigned in Britain; for in the 5th chapter it is said, "That the Scots, tho' they were in Britain before the Incarnation, yet they

lived a long time according to the law of nature, without a king, till one called Fergus brought the famous stone to Argyle (Argadia), and became the first king of the Scots." Mr. Innes takes this Fergus to be the son of Erc. Let it be taken for granted that the author meant him, though Fordon says, l..... That Fergus the son of Ferchard brought over the fatal stone.

It must be owned that the title first given to the son of Erc, does not appear to be restrained here, or qualified, as it is in the other extracts.

But either the author could not mean here that Fergus who reigned in the fifth or sixth age: (In some of the extracts the other Fergus is likewise called son of Erc;) or, if he meant him, he did not understand that he was absolutely the first that reigned in Scotland; for in the 4th chap. he says, the Scots came into Scotland 443 years before Christ. Now it is hardly to be supposed that he would say they lived above 900 years according to the law of nature, without a king, especially if we consider, that he says in the preface to his chronicle, that the Scots reigned before the Piets; and every body allows that the Piets reigned long before the fifth age. And Mr. Innes himself owns, that this expression ought not to be taken strictly. Speaking of the Scots coming in under Eoacha Riada, in the third age, p. 664, he says thus, "It is at least very probable they continued and made a figure in the fourth and fifth ages, and it is no ways likely that they could have subsisted without some government of their own,—nor without leaders or chiefs;—and I do not see why these leaders or chiefs of the Scots in Britain might not be called kings, as well as some of these of Ireland, to whom that title is given, or even as some of these in England during the heptarchy, or these of the Britains or Welsh in Wales, or in the west of Scotland: So that the

expression we will find in the Latin chronicle in metre, (N. B.) That the Scots in Britain till the time of Erc lived without a king, cannot regularly be taken in the rigour of the letter, as if absolutely they had not such lesser kings, as there were many in Ireland;—but that the Scots before the time of Erc had no sovereign king over all the Scottish inhabitants of Britain, such as Fergus the son of Erc and his successors were.”

Does not this explication of Mr. Innes justify the observation, that what is said of Fergus son of Erc, in the extracts quoted by him, is not to be understood as if they meant that he was absolutely the first of the Scots that had reigned in Britain, but the first that had reigned over the Scots, after their dominions were enlarged, i. e. from Drumalban to Incheval.

But there is another passage in this *Chronicon Rythmicum*, which Mr. Innes thinks an additional and irrefragable proof of Fergus the son of Erc's being absolutely the first king of the Scots; it is the time the Scots are said to have reigned together with the Picts, which he says is 332, or 312 years; according to a different reading, it being in some copies *quater octoque*, that is, and eight four times, i. e. 32; in others it is, *quatuor octoque*, that is, four and eight, i. e. 12. Now this number of years will not reach further than Fergus the son of Erc, who reigned in the fifth or sixth age; whereas Fergus I. is supposed to have lived 330 years before Christ; that is, near 1200 years before the union of the Scots with the Picts. The words in the extract are,

“Hi cum prædictis regnarunt tempore Pictis,
Quod trecentenos quater octoque continet annos.”

Mr. Innes, to adapt this to his scheme, interpolates *Scoti* before *hi*, as if the author was speaking of the reign of all the Scottish kings.

This interpolation of Mr. Innes's, together with the ambiguous way of the author's expressing himself, led me, when I considered these lines separately, to distinguish the second line thus, *Trecentenos quater, octoque*, three hundred four times and eight: This appeared the most natural and easy way of distinguishing; and this way it gives the time that Mr. Innes says is required to reach to Fergus I. and then the author, who says that the Scots reigned before the Incarnation, would be consistent with himself; whereas if he is speaking of the whole time of the Scots reign, according to the other way of distinguishing, he flatly contradicts himself.

Mr. Innes, in his note on the 2d verse of the 4th chapter of this Chronicon, says thus p. 809. " Indeed, from the whole context of this and the preceding chapter, it appears by these verses, *Bis bis centeno*, &c. that the author was of opinion, that the Scots began to inhabit in Britain 443 years before the Incarnation, and that they were settled in this island before the coming of the Picts, whom both this author and all other Scottish writers believe to have come into the country at least 200 years before Christ."

He says the same thing, p. 703, when he is refuting Bede's interpretation of these lines, *Bis bis centeno*, &c.

And the author of the Chronicon, in the preface, says expressly he will give an account how long the Scottish kings reigned before the Picts, how long they reigned with them, and how long after them.

Thus it is undeniable, that this author believed that the Scots were settled in Britain under kingly government before the Incarnation.

But to speak ingenuously, when I turned over to the extract, and read it at length, I was satisfied that this passage ought to be understood 332 or 312: But then it

is to be observed, that he does not say that the Scots, as Mr. Innes has interpolated it, (meaning all the Scots kings) but only these, reckoning up them that he had named, who had reigned from Fergus the Son of Erc to Kined, which is the same series with what is contained in the 5th extract, under the title of, *An Account of twenty three Kings in 327 years*; that is, from Fergus son of Erc to Alpin the father of Kined.

And this does not prove that this 332 or 312 years is the whole time that there were kings that reigned in Scotland with the Picts, no more than the like expression in the 4th extract, when having reckoned those that had reigned from Kined to William, the author says, “From the first year of William the years of the Scottish kings are 315.”

Besides the extracts in the appendix, Mr. Innes brings as a further proof an extract written by James Gray. I know not how he comes to make use of this as a new proof, since, p. 671, he owns it is only a copy of the register of the priory of St. Andrews, which he produced before as one of his evidences. Now a hundred copies of the same record are still but the same evidence over and over again.

But it may still seem more strange, and in a manner a paradox, that he should adduce James Gray as a witness, when he is directly against him; for from him it is plain, that the catalogue in that list does not contain a complete list of the Scottish kings, but only the series of those that had reigned after the dominions were extended beyond Drumalban, or, as he calls it, Druthin-alban.

To prevent any body's thinking otherwise, before he sets down the account of these kings, he cautions his readers to remember that the kingdom of the Scots begun

before the Incarnation: *Notandum quòd regnum Scotiæ incepit ante Incarnationem.*

Mr. Innes says, that the reason of that *Notandum* is, because Mr. Gray had seen Fordon's history, and was preven'd by the common notions that the Scots had in his days, of Fergus the son of Ferchard being the first king, and founder of the monarchy; but that being a public notary, he caused to be transcribed faithfully the account of the succession of our kings, such as he found it in ancient records, however opposite it was to his own and the common opinion of the Scots in these days.

No doubt James Gray transcribed it faithfully; but he had not the same notion of it as Mr. Innes: He thought it no ways opposite to his own and his countrymen's opinion about the royal government in Scotland; he looked upon it as only a partial list of the Scottish kings, from the time that Fergus extended their dominions, or, as Fordon has it, from the restoration of the monarchy; there is not the least insinuation that he thought it inconsistent with his *Notandum*.

NUMBER VII.

Is an extract of the chronicle of Andrew Winton, prior of Lochleven.

The argument that Mr. Innes brings from this chronicle is, that Mr. Winton, though amongst the rest of the names of the predecessors of our kings he reckons Fergus the son of Ferchar, yet he takes no particular notice of him, nor in the least insinuates his having been the first king, or a king of the Scots at all; whereas, when he comes down to Fergus son of Erc, he calls him expressly the first king of the Scots, and also in the review by him-

self of his chronicle he persists in it; and according to the records of St. Andrews (and he does not doubt but he had it from them), informs us that Fergus son of Erc, first king of the Scots, reigned three years from Drumalban to Inchevall.

This is no ways a fair account of Winton's chronicle. Mr. Innes, p. 684, endeavouring to prove his scheme of Fergus, that reigned in the fifth or beginning of the sixth age, being the first king of the Scots, from a tradition among the Scots of their monarchy beginning by one Erc, or the son of Erc, tells, that the instructions given to their commissioners at Rome, A. D. 1300, during the debate with King Edward before the Pope, speak of two Ercs, one that reigned before the Incarnation, and another in the fourth or fifth age. When Winton calls Fergus the son of Erc, or Erthson, the first king (absolutely) of the Scots, he certainly does not mean that Fergus that lived in the fifth or sixth age; for he says of him that he reigned before the Picts. His words are:

“ Fergus Erthson the first man
Was yat in our land began,
Before that time yat the Peythis
Our kinrik wan fra the Scottis,” &c.—P. 821.

And in his chronicle reviewed by himself, when he comes to speak of Fergus that reigned in the fifth or sixth age, there is not so much as the word *first*, but only that he reigned three years from Drumalban to Stanemore.

Mr. Innes saw very well (though it made for his purpose to dissemble it) that Winton speaks of two kings of the name of Fergus, between whose reigns there intervened a great distance of time: For he observes him to be mightily embarrassed how to reconcile the great distance of time from Fergus Erthson to Kenaught Macal-

pin, which is above 1200 years, with the small number of generations that are reckoned between them, which are but ten or eleven. Mr. Innes, after he has represented the intricacy of that account, p. 626, says thus: "Winton himself had observed this in the first draughts of his chronicle, and after useless efforts to get rid of it, he is at last forced to leave it to others, or rather to give it up, and to own that the Picts were already reigning in Albany, before Fergus Mac-Erch, first king of the Scots, began to reign. It seems that Winton was advised to omit all this in the last review and correction of his chronicle, where accordingly we meet no more with it." And, p. 682, he says, "At last finding it impossible to make ten or eleven generations in those times fill up 1200 years, he chuses rather to bring down the beginning of the Scottish monarchy to more modern times, and to grant that the Picts were already settled in Britain when the Scots came into it, and doubts no more of Fergus the son of Erc being their first king."

Let one judge whether this is a just account, by the words of the extract reviewed by himself, which are as follows:—

"Four hundred winters and fifty,
And twa to reckyn our even likely,
Before the Nativite, &c.
As in our story written is,
Yan in Scotland the Scottis
Begouth to reign and to steir,
Twa hundred full and forty zhere,
Five winters and Monethis three *
Or the Peythis in Scotland
Came in, and in it were dwelland.
And now to thai I turn my style,
Of their lynage to speke a while:

* Gif yat all suld rekkonit be—(*Line omitted by Waddel.*)

As in the third book was before,
 From Simon Brek till Fergus More,
 Is as the Scottis lynally
 Come down of Irishery ;
 Quhar yen I left, now to begin,
 Yair namis here I will tak in.
 He yat was callet Fergus More,
 In ye third buke ze hard before,
 Was Fergus Erthson, that thre yhere
 Made him beyond ye Drum to steir,
 Oure all ye hychtis evir ilkane,
 As yai ly fra Drumalbane
 Till Stanemore and Inche gall,
 King he made him oure yaim all."

I cannot possibly imagine how Mr. Innes can from this extract reviewed infer, that Winton disclaims his former opinion of the antiquity of the Scottish monarchy. Does he not say in the plainest terms, that the Scots began to reign 452 years before the Incarnation, and 245 years three months before the Picts? And as to Fergus Erthson, does he say that he was the first king of the Scots? So far from it, that where he is speaking of him, the word *first* is not to be found at all; all that he says of him is, that he reigned beyond the Drum, over all the country from Drumalbane to Stanemore and Inche gall.

Besides the authority of these extracts, Mr. Innes, p. 684, endeavours to establish his scheme from the instructions which the Scots sent to their commissioners at Rome A. D. 1300, during the debate with king Edward before the Pope. He says, from these instructions it appears that the tradition of the Scottish monarchy beginning by one Erc, was deeply rooted in the minds of the Scots; 1. From their deriving from Erc and Gatheyl the name of their first settlement in Britain; 2. From their naming no other king of Scots but Erc, whom they bring in both the first king of the Scots in Britain in the highest

antiquity, and again as a king of the Scots about the end of the fourth or beginning of the fifth age, where our moderns (says he) place the restoration of the monarchy.

This opinion of one Erc's being the founder of the Scottish monarchy, is no ways an argument against the antiquity of it. Mr. Innes owns, that the instructions speak of two Ercs, one that reigned before the Incarnation, and another in the fourth or fifth age; and I believe that those that plead for the antiquity of the royal line, will not be much concerned whether the name of the father of the first Fergus was Ferchar or Erc, which is also the name of the father of the second Fergus: And to do Mr. Innes justice, he does not seem to lay much weight on this; he only says it is worth observing.

I would not have it to be thought that I am contending for the highest antiquity of the settlement of the Scots in Britain, or of the race of the Scottish kings; I have studied to avoid entring into that question: Nor do I indeed think that the honour of the nation, or of the royal family, is much concerned in it. Supposing they had no kings before the fifth or sixth age, they may vye with the eldest royal families in Europe. If there can be offered good reasons by which it may clearly appear that this is the time about which they began to be settled, we ought no longer to struggle for an opinion that is contrary to the truth of history, out of a vain notion of honour to the country; though, on the other hand, unless there can be brought sufficient arguments against the common opinion, it would be ungenerous, as well as unjust, to sacrifice the memory, or do any thing in prejudice of the honour of these persons, that an uninterrupted tradition has represented as the founders and supporters of their country.

Fordon surely was not the first that gave rise to that

opinion of forty kings: Mr. Innes owns, that while our ancient records or histories were yet entire, they agreed in a genealogy of our kings, in which these forty that preceded Fergus the son of Erc are distinctly reckoned. While he is endeavouring to discredit Boece's history, he thinks it a clear proof, that the authors upon whose authority he reports things, were forged, because the names they give of their kings differ exceedingly from those in the authentic genealogy, in which all our writers before that time do agree.

Of which agreement he says thus, p. 236, "In the twelfth age, the author of the genealogy, in the MS. intituled, *Chronica Regum Scotorum*, set down in the Appendix, Numb. 4, who was a Scottish writer, and Radulphus de Diceto, dean of London, an English writer, relate both of them this genealogy as it is set down by Fordon."

And p. 237, "In the thirteenth age (says he) the Highland *Seanachy* or antiquary, mentioned by all Fordon's continuators, and by Major, pronounced this genealogy in the same series of names from Fergus son of Erc to Fergus son of Ferchar and upwards, at the coronation of king Alexander III. A. D. 1249; and this being on so solemn an occasion, in presence of the three estates of the kingdom assembled for the coronation, carries with it the sense of the whole kingdom, especially that of all Highland *Seanachies*, so well versed in and so tenacious of the ancient genealogies; and this while our ancient records were as yet entire, and before they were destroyed by Edward I."

P. 238. "Fordon, after all his travels and searches, inserts this in his Chronicle, as being the authentic genealogy of our kings, and conform to what he had met with every where else."

P. 239. “ Thus we see, besides the English account of that genealogy, the same as ours, and the Irish, which differs only in four or five names, the Scottish writers in all ages, south, north, and Highlands, the writers of the clergy and those of monasteries, all agree without exception (allowing for the faults of transcribers) on the same names and series of the genealogy from Fergus the son of Ferchar, called Fergus I., to Fergus II. son of Erc.”

Thus Mr. Innes allows the genealogy to be authentic, but he will by no means allow any preceding Fergus son of Erc in that genealogy to have been kings. I have no mind to dispute it with him, though it is not easy to imagine a good reason why there should have been such care taken to preserve their memory, and to rank them in the catalogue of their kings, and that without any mark of distinction, at the coronation, if they were not kings.

It is at least a proof, that the persons there named were considerable for the power and credit they had among the people ; and no great matter whether you call them leaders, or chiefs, or little kings.

And unless we see better reasons than Mr. Innes has offered, I think it would be rash to pronounce certainly that they were not kings, contrary to the received opinion.

I think it evident to a demonstration, that these extracts upon which he founds his opinion (and if he had had any clearer, no doubt he would have produced them), are not to be understood as if they meant that Fergus son of Erc was absolutely the first king of the Scots : is it possible that these who say expressly that the Scottish monarchy begun before the Incarnation, that it was more ancient than the Picts, (as the Breve Chronicon,

Winton and Andrew Gray most expressly affirm), should mean that Fergus son of Erc, who did not live till several ages after Christ, was the first king that had reigned in Scotland? Without their asserting a more ancient monarchy in plain terms, I believe few will deny but that expression, "Fergus was the first that reigned beyond Drumalban," implies that others had reigned before him, though in smaller territories.

And this sense of the words is so obvious, that Mr. Innes dares never repeat them fairly, but always glosses them so as they may best serve his scheme, viz. "Fergus son of Erc, was the first king of the Scottish race," or, "Fergus son of Erc was the first king of the Scots in Britain;" which every body sees differs vastly from the words in the extracts.

However, it is not so much to be wondered at, that he finds it in these extracts, when he has found it in Fordon. How comes it that he did not discover it in Sir George Mackenzie's Defence of the Antiquity of the Royal Line?

After all, though it may seem a strange paradox, (let me be allowed to copy after Mr. Innes) I will venture to say, that Mr. Innes himself is satisfied that the expressions in these extracts to which he refers, do admit of a sense consistent with the received opinion of a monarchy much more ancient than the fifth or sixth age.

This will appear from what he has said in the 4th chapter, containing the conclusion of the first section.

He writes thus, p. 397, "But as to the antiquity of the settlement of the Scots in Britain, and an ancient monarchy, even in the Scottish line, laying aside the additions of Boece and Buchanan, I was long of opinion, that on supposition of the truth of the Irish high antiquities, those of the Scots in Britain might be much more pro-

bably sustained, on the old system of our history, such as Fordon and his continuators have left it; the few particulars they contain of the Scots from Fergus I. till Fergus II. laying aside some things visibly fabulous, appearing to me less opposite to the ancient Roman and British histories."

P. 398. "Being unwilling wholly to abandon a system of our antiquities, which had been generally received among the Scots during the three last centuries and upwards, I was resolved to leave nothing untried that was consistent with truth, and might gratify my countrymen attached to the antiquity of the settlement and monarchy in the Scottish line.

"In order to this, my first application was, to support the system of our antiquities much on the same footing on which Fordon's followers and continuators had left them, before Boece's history appeared, by endeavouring," &c.

Towards the end of the same page he says, "I had entred into a full discussion of all the passages of the Roman and British writers, from the first time that the name of Scots is made mention of by ancient authors; and had shewn, at least with probability, against Cambden, Usher, and others, that all these passages might be reconciled with Fordon's system of our antiquities (admitting some corrections of it), and in particular with the settlement of the Scots before the Romans first entry into this island, with their being forced out of Britain by the Romans after the middle of the fourth century, with their restoration in the beginning of the fifth," &c.

Though Mr. Innes is unwilling to speak out as to the extracts of the records of our ancient histories, yet is it not plain, that while he inclined to come into Fordon's

scheme, he saw how the passages in these records might be easily reconciled with the received opinion of an ancient monarchy, viz. by understanding what is said of Fergus son of Erc, not as if the meaning was, that he was absolutely the first king of the Scots in Britain, but only the first after the restoration of the monarchy?

And one will be apt to think, that the circumstantiated account he gives, p. 744, 745, of the way that Fordon seems to have argued or reasoned with himself, in order to reconcile his system of the forty-five kings with the remains of the ancient chronicles of the Scots, is the way that he himself has reasoned while he was applying himself to support the system of our antiquities.

When I consider Mr. Innes's wavering and uncertain way of writing in his Essay, it brings to my mind Horace's Carpenter,* doubting some time with himself what use he should make of the trunk of a fig-tree he had by him, whether he should make it into a bench for people to sit upon, or into a god for them to worship, for he thought it might serve for either; at last he resolved to make it into a god. I cannot forbear fancying, and I think abundance of passages in his Essay will justify it, that Mr. Innes has doubted a long time to what use he should put the materials he had collected; whether he should employ them to prove the antiquity of the settlement and monarchy of the Scots, or, on the contrary, to overthrow it; and that it was not without some struggle that he had chosen the last.

Indeed after he had determined himself, he has urged his opinion (to use Bishop Atterbury's words† on another occasion) with so much warmth and gravity, and such an air of assurance, that even a wary reader would be apt to

* 1 Serm. viii. 1, et seqq.

† In the preface to his discourses.

think it well founded. But after weighing the strength of his arguments, I may pronounce, as the Bishop does of his adversary's censure, that never was an assertion (for ought he has said to support it) more rashly vain, or more entirely destitute of all colour of truth.

In reprinting the preceding "Remarks on Mr. Innes's Critical Essay,"* it has been thought necessary to give the extract quoted in page 232, *precisely* as it stands in Innes, (vol. ii. page 772) viz. "Fergus filius Eric ipse fuit primus qui de semine Chonare suscepit regnum Albaniae, l. A monte Brunalban usque ad mare Hiberniae & ad Inchegall. Deinde reges de semine Fergus regnaverunt in Brunalban, sive Brunhere, usque ad Alpinum filium Eochal: Kined filius hujus Alpini primus Scottorum annis XVI. in Pictinia feliciter regnavit."

The extract from Fordon, quoted at page 238, stands thus in Innes, (vol. ii. page 674)—" [*Fergus filius Erch*] *tribus* [ultimis] *annis ultra Drumalbayn, hoc est, ultra dorsum Albaniae primus regum Scotici generis* [in terra Pictorum] *a montibus ad mare* [Scoticum] *regnavit.*"

The reference in page 240 to Innes, p. 145, must be a mistake of the press, as no such passage as is here quoted can be found there; but see Innes, vol. i. page 204, &c. and vol. ii. page 600, &c.

Upon the whole, it must be confessed, that the quotations from Innes are somewhat loosely and inaccurately given. The author has a note upon this subject (page 236 of *this vol.*) which at this distance of time, it is believed, cannot be properly understood.

* This tract has been generally attributed to a Mr. Waddel. He is supposed to be the same person who made an English prose translation of Buchanan's Psalms, and he is there called "Andrew Waddel, M. A. late Teacher of Languages."

AN ESSAY,
UPON
THE INSCRIPTION
OF
MACDUFF'S CROSSE
IN FYFE.

By I. C.

1678.

Veterrima quæque ut ea vina quæ vetustatem ferunt esse debent suavissima.—
CICERO. *de Amicitia.*

EDINBURGH:
PRINTED BY THE HEIR OF ANDREW ANDERSON,
PRINTER TO THE KING'S MOST EXCELLENT
MAJESTY.

1678.

The preceding page is a copy of the title of the original edition of this curious and rare tract, (*a copy of it is marked 1l. 11s. 6d. in Mr. Blackwood's Catalogue, Edinburgh, 1812, No. 402*); on the back of the title we have the following line:—" *Antiquius quod est, hoc venerabilius.*" Bishop Nicolson, in his Scottish Historical Library (8vo. London, 1702, page 66), speaks thus of the work and its author:—" Mr. James Cunningham's learned Essay upon the Inscription of Macduff's Cross in Fyfe, brings the Macaronic Rhimes on that venerable piece of antiquity from a *Saxon* fountain; and reduces them into an intelligible and princely charter, wherein K. *Malcolm Canmoir* grants large privileges to the loyal Earl of that county." And at page 138 of the same work, we learn that Mr. Cunningham was a writer to the signet, and published in 1685 a curious Latin poem against Bishop Lloyd, relative to the Controversy about the Antiquity of the Royal Line of Scotland, &c. Nicolson's words are, that our author "slew the Bishop of S. *Asaph* in verse;" &c. as in pages 138 and 139. The Essay was reprinted at Edinburgh in 1716, 4to., and it forms part of a publication which appeared there in 1719, 4to., entitled, " *Miscellanea Scotica*," of which laudable undertaking it is believed only the first number of Vol. I. came out: it cannot now be ascertained why the publication did not go on. We are indebted to the kindness of Dr. David Irving, Librarian to the Faculty of Advocates, for a perusal of this very scarce collection, which was published at the small sum of one shilling, and is priced 2l. 2s. No. 650 of Mr. Blackwood's Catalogue already referred to. Sir Robert Sibbald, in his History of Fife and Kinross, (*folio, Edinburgh, 1710, pages 92 and 93*), speaks very favourably of "the ingenious" Mr. Cunningham's Essay, and gives a copperplate of a copy of the inscription (taken from Sir James Balfour's papers), which he says, "perhaps may be the same, Mr. James Cunningham mentioneth, in a postscript to his Essay." (*Vide page 280 of this vol.*) Part iii. sect. iii. chapter i. of Sir Robert Sibbald's History of Fife, is the second article in the " *Miscellanea Scotica*" above referred to; the rest of its contents consist of papers upon subjects not included in " *Scotia Rediviva*."

THE
INSCRIPTION

UPON
MACDUFFS CROSS,

WHICH STANDS ABOVE THE NEWBURGH, NEAR LUNDORES,
UPON THE CONFINES OF STRATHERNE AND FYFE.

MALDRARADRUM DRAGOS MALAIRIA LARGIA LARGOS
SPALANDO SPADOS SIVE NIG FIG KNIPPITE GNAROS
LOREA LAURISCOS LAURINGEN LOURIA LUSCOS
ET COLUBURTOS SIC FIT TIBI BURSEA BURTUS
EXITUS ET BLARADRUM SIVE LIM SIVE IAM SIVE LABRUM
PROPTER MACCIDRIM ET HOC OBLATUM
ACCIPE SMELERIDEM SUPER LIMPIDE LAMPIDA LABRUM.

THOUGH I had this of an ingenious gentleman, telling me he came by it from the clerk of Crail, who informed, that several succeeding clerks there, have, for a considerable time, engrost this as a true copy in their books, to preserve it from utter perishing ; for it is now quite worn off the stone, at least altogether illegible. But be it so recorded in Crail, Newburgh or elsewhere, yet with their good favour, scarcely can I judge this a true and exact copy ; whether the fault has lyen in the first copiator from the stone, or from the engraver, or partly both : For, none who knows the history of Mackbeth, Malcom Canmore, and Mackduff, will, I hope suppose, that such a king as Malcom Canmore, when he intended to witness a favour for Mackduff's services, and such a subject as Mackduff, when he was willing to publish the royal bounty of his

master, would upon the cross of so famous a sanctuary (as this was) have inscribed but non-sense. And though the true meaning and purport of the words be dark and abstruse to us, who now live at such a distance; yet I wonder why the learned Skeen should brand them as barbarous (I hope he only means unintelligible, and not nonsensical), for questionless they are (for what I have said) significative, and I doubt not but to purpose; and most probably they were written, either to signifie the priviledges given by King Malcolm to Mackduff, with the benefits he enjoyed by virtue thereof, or the immunities, freedoms, and pardons indulged by, and conferred upon, that girth, if not in a complicated sense, all of these together. So then, allowing them to signifie sense, which few men in a sober charity can well refuse; lets see (as far as we may) to what language the words are best reducible, for to any single one they cannot: for, albeit the termination, flexion, and construction, I take to be most after the Latine, and that there be some Latine words intermixed, yet none will aver it all to be Latine; so to some other language we must go, which is but one of two, our old High-land or Irish tongue, or the Saxon: And as I hardly think it the High-land or Irish, as well, because I never heard that brought under Roman terminations, constructions, or declinations; so even those that would wrest it to that language in some words, cannot follow it out in all, although they be seen in the Irish tongue. And it is strange, none of our Highlanders, tho Scholars, ever interprets it; therefore I much rather incline to deduce it (at least most of it) from the Saxon, which I hope will not seem strange to the intelligent, when he remembers what footing the Saxons had in this isle, and how Malcome Canmore was not onely long an exile at an English Saxon Court, but that he had

interest in Northumberland, Cumberland, and Westmorland, which was but sometimes a province of the West Saxons. And as there came 10000 English Saxons then in with Sibardus, the kings grand-father, so they must be but novices in our language, who do not find vestiges of the Saxon in it almost every where. Taking then this inscription to be Saxon (as to the main) aped in a Latine dress, as to the main, I say, for suppose some words might savour of a Danish, or old French extract, it needs not import, since both are of a Teutonick origine, aped, I say, in a Latine dress, whether from the fancie of the author, to make it to run the smoother with the interlaced Latine in this his hexametral composition, or from some inclination of King Malcome himself, of whom and of whose time, sayeth a grave author, as now the English court by reason of the abundance of Normands therein, became most to speak French, so the Scottish court, because of the queen and many English that came with her, began to speak English, I understand the English Saxon, the which language it would seem, King Malcome himself had before that learned, and now by reason of his queen, did the more affect it; thus far he, where, if I might be allowed a conjecture, perhaps this sanctuary was granted at that pious queen's intreaty, and here inscribed with her native tongue for her greater honour, and the rather under a Latine vizorn, to invite the Scots (of no language more studious then Latine) to some love and knowledge of the Saxon. And so let us now with allowance, to rectifie what escapes may be in the orthography, modestly examine the words themselves; but lest I be thought to be too peremptory to impose my naked conjectures, in a matter of such antiquity, I shall bring my vouchers where I have them, with the probable mo-

tives that prevail with me to such a sense, still leaving a just liberty to all who can find out better.

First then (as the words ly in order), I take MALDRARADRU to be a supposititious genitive, in the plural number after the Greek way, from *Maldra*, *Maldrus*, the German *Maldar*, *pro modio seu certa mensura frumentaria*; and Spelman sayes, *Maldri vocabulum est Alemanicum*; and have we not to this day with us the word *Melder* and a melder of corn, and this genitive *Maldraradrum* I construe with DRAGOS, conjoined with its Latine adjective *Largos*, and this *Dragos* I suppose denizon'd a Roman from DRACH or DRACHE of the Greek *δραγμα manipulus* *δρασσω prehendo, manu arripio*, *Fut. 2. δρω, from* which belike we have the words *draught* (as applyed to cups and fish-netts) *drag*, *draw*, so that LARGOS, DRAGOS, MALDRARADRU, may signifie large quantities or measures of corn, to be taken by some compulsive or distreinziable force, as will I hope anon be found agreeable with the rest of the sentence.

MALAIRIA, I fancie here by wrong orthography mis-written for MAIRIA, *Officium majoris, majoratus, praefectura*, sayes Spelman, (sufficiently known in the burrowes royal:) And does not our Skeen, in his 15 chap. of the Statutes of Alexander the Second, call the Earl of Fyfe, *Marus Regis Comitatus de Fyfe*, (whereof more anon) *Mairia*, I take to be in the ablative case, for we must not here be tyed to the strict rules of metrical quantities, or grammatical constructions.

LARGIA, mis-written I suppose for LAGSLITA, or LAGHSLITA, by inadvertency or transposing of the Saxon letters; yea, and the Saxons sometimes in their capitals, plac'd letters within letters, and were somewhat odd in their contractions and abbreviations, especially in monumental

inscriptions ; *Lagslita, Transgressio Legis, Legis violatae poena, proprie ruptio legis, seu mulcta pro transgressione legis, LAR et LAGH, Lex, et SLIT, rupta, Vox Danica, et in Anglo Danorum Legibus primum deprehensa*, sayes Spelman : But what needs me cite Spelman, have we not the phrase, *Ilk land has its laugh*, and is not the word *Slit*, as obvious as beneficial to every Taylor : *Lagslita*, I take to be in the accusative case, which must be supplied with the preposition *propter*, and yet for all this the sentence is but mank without the help of a verbe, which must be borrowed in KNIPPITE, written belike for KNIGHTHITE, by placing the Roman P for the Saxon TH, which yet may be excused, since Spelman finds that fault in the transcriber of Canutus Laws, upon the word THEGEN, or PEGEN. *Knighthite* then, or *Knippite*, being a supposititious verb, (for I know not the Saxon constructions or conjugations) after the Latine form, from the Saxon KNIGHT, or KNYT, signifying *famulus minister*, may import as much as, Receive ye as my servant or deputie, and being joyned with *Mairia*, as my lieutenant (for so is yet a *Maire* within burgh), so that *famulus minister* in this word here must be honourable, and κατ'ἐξοχήν, as it is in THEINI, THEIGNI, THANI, who from THIEN to serve, were but *famuli ministri*, and yet were those *famuli regni barones*, as Spelman notes. And thus the sentence may be expounded, Receive for your service as my lieutenant, and through and by virtue of your office of lieutenantry, uplift and distreinzy large quantities and measures of corn, for the transgressions and breach of the laws ; and why then should Skeen terme that barbarous, who himself homologats the same sense in another language, in that his above-cited chapter of king Alexander the Second, intituled, *De Forisfacturis levandis ab illis qui remanent ab exercitu*, where in the marginal gloss upon the

4 para. speaking of the Earl of Fyfe, his words are : *Et ille non sicut comes, sed sicut Marus Regis Comitatus de Fyfe, ad rectitudines suas exigendas* : and does he not again, in his *De Verborum significatione*, in the word Clanmackduff, say out of Boetius, that amongst other priviledges, Mackduff and his clan had the priviledge and right of a regality ; yea, and does not the learned Spelman say, what was GILDWITE to the English Saxons, was LAGHSLITE to the Danes, and both *forisfactura* to the Normans (*amerciaments* with us), where may be noticed the judicious exactness of the composer, in his prefixing the general word LAGHSLITA, to be americiat by victual or corn : For *Laghslitae*, sayes one, *anumerandae sunt mediis et levioribus delictis, quorum mulctae pietatis intuitu, et per misericordiam imponuntur. Nec graviora crimina*, sayes another, *inter Laghslitas simplices numerata aut levia, quaeque instar graviorum mulctata quisquam opinabitur*. And so how methodically does here our old versificator proceed to faults and crimes of greater guilt, and more special denomination, yet for a while still under the conduct of *Knippite*.

SIVE GNAROS SPALANDO SPADOS, I conjecture to signifie, whether such as are known cunning, or accustomed to want, or put away their weapons of warfare : the two first words being Latine, I hope will not be refused ; the construction of *spalando*, I take to be a gerund for an infinitive, *gnaros spalare*, a counterfeit conjugation, from an old French word, *ESPALER*, to scatter, cast away, or spread abroad. *SPADOS*, from *ESPADE* or *ESPADON*, in the same language, a sword, and by a metonymy, for any weapon. Neither needs it be strange that these words are borrowed from the old French, which did depend upon the Teutonick and High German, as the modern does now more upon the Latine ; and that wanting and away-putting of weapons of warfare were with us reputed crimes,

and punished as such, see Skeen himself, in the 27 chap. of the first statutes of King Robert the Bruce, *de armaturis pro guerra et poena eorum quo eas non habent*; which is there said to be forfaiture, or escheate of all his goods, and in the last chap. of the same statutes, entitled, *Non licetrendere arma hostibus regni*: The punishment is loss of life and limb, and all that they can tyne to the king, which must be goods. And it were but frivolous to alledge that these statutes are long after the upsetting of Mackduffs-cross: For, how many things are punishable by the common law and practick of the kingdom, before they become *statutorie*: And does not their coming under a statute, imply a prior custom? Yea, and who knows, but that after such a catastrophe as was at, and before, the Bruces coming to the crown, they might be rather but revived, than original. And have not our subsequent laws for weapon-shawings been founded upon thir customs, to prevent such inconveniences for the future?

SIVE NIG, and here we must return again to the Saxon NIG, for NIGHWITE, the syllable *wite*, *multa poena*, being left out, which is some time ordinarie (our ancestors delighting much in monosyllables), and the rather allowable in this metrical composure, NIG or NIGH contracted from NITHING, NIDLING or NIDERLING; such as stay away from the host: For, sayes not *Malmesberiensis*, *Jubet (scilicet rex) ut compatriotas advocent ad obsidionem venire, nisi siqui velint sub nomine Niderling, quod nequam sonat remanere, Angli qui nihil miserius putarent quam hujusce vocabuli dedecore aduri catervatim ad regem, confluunt et invincibilem exercitum faciunt*. And sayes not Matthew Paris, *Ut ad obsidionem veniant jubet nisi velint sub nomine Nithing, recenseri, Angli qui nihil contumeliosius et vilius estimant, quam hujusmodi ignominioso vocabulo, &c.* And does not Spelman deduce *Nidling*, à *vocabulis Anglo Normanicis*, *Nid*, id est, *nidus* et *Ling*

pullus, ac si ignavi isti homines, qui in exercitum proficisci nolunt pullorum instar essent, qui de nido non audeant prodire domi latitantes et torpescentes. And have we not the above cited 15 chap. of our Alexander the Second, entituled, *De forisfacturis levandis ab illis qui remanent ab exercitu regis*, where the Earl of Fyfes priviledge is expresly reserved to him, *qua marus regis ad rectitudines suas exigendas*; and what be the pains and punishments of such as stay from, or desert the kings host, are they not sufficiently known, and freshly remembred by us to this day?

FIG for FIGWITE, FIGWITA, or FYGHTWITA, the mulct of such as by fighting raises a fray, trouble, or disturbance in the host, or perhaps more generally, *mulcta rixarum cum verberibus, vel ipsae pugnae*; and *Ranulphus Cistrensis* calls *Fyhtwite, amerciamentum pro conflictu*. And have we not a severe certification in a subsequent statute against such as raises a fray in the host, 54 act, 12 par. Ja. 2d. And is not the word FIGHT yet plain with us?

LOREA by wrong orthographie, *pro* LOTHEA (I suppose) from the Saxon HLOTH, HLODE, the Saxon aspiration being left out in the transcribing, as is ordinary, the Saxons having a peculiar way of fixing aspirations on their consonants, by ingrossing them with the same figure as the Greeks in their ϕ . χ . θ . and the r here written for *th*, the Saxon figure of both being apt to impose one for another, if not narrowly noticed: *Qui de Hloth fuerat accusatus abneget per centum viginti Hidas, et sic emendet: hoc est*, sayes Spelman, *qui turmae illegitimae interfuisse arguitur, &c.* And *Hlothbota, mulcta ejus est qui turmae illegitimae interfuerit, Bote Saxonicum, compensatio emendatio*; and have we not a phrase in some places, *they clod together*, from the Saxon HLODE, *turma*, and how far unlawful meetings and convocations of the leiges have been, and yet still are troublesome to this kingdom, those that run may read: And if this word

be rightly deduced, it seems our forefathers have very prudently here placed it among the thick of the Cryms, which makes me the rather admire, why so much noise hath in this our age been made for suppressing them, as if unlawfull meetings had never been thought a cryme with us till of late. I know some may incline to deduce this word from LOT, of the Saxon HLOT, *sors, pars tributi sive solutionis alicujus quam inter alios quis tenetur praestare*, sayes Spelman; so that such would make the meaning here to be a gift or surrender of all unlaws or escheats belonging to the king, and in that so often cited 15 chap. of the statutes of Alexander the Second, in the 5 parag., some ground may be there for such a conjecture from *de Cavellis vero, &c.* And some such priviledge is yet granted to the house of Argyle in point of escheats (or unlaws for crymes), which yet here I conceive sufficiently included in KNIGHTHWHITE, MAIRIA, and therefore likes best of the first exposition of the special cryme of unlawfull convocations, with liberty to the candid reader to choose as he pleases.

LAURISCOS, I suppose, should be read LEUDISCOS, from LEUDIS, LEODIS ET LEUDUM, *quæ verba dicuntur pro WERGILDO, de capitis estimatione leudi soccisi scilicet de compositione quam aliter WERAM & WERGILDUM, vocan.* LEUDIS, *vassallus, cliens, homo ligius, subditus*: So leudiscos may signifie the amerciaments which were then due to the king by and attour the *kinbote*, for killing of a free Leidge. And that it was the custome among the northern nations, rather to amerciat than to take bloud for bloud. Hear Tacitus, *Germani veteres et Aquilonares gentes, qui jugum pariter et leges omni Europæ imposuere gravissima delicta ipsaque homicidia pecuniis commutabant*: And another saying, *Pœnarum enim ratio apud mediorum sæculorum homines in mulctis, potius quam in sanguine sita fuit.*

For LAURINGEM, I willingly would read LARICINGIN, robbrie and theft, for thus with the N it is in the plural number from *laricinium*, the French *larrecin*, and both belike from the Latine *latrocinium*, where sayes Spelman, *Prisca Anglorum lex larricinium divisit in majus et minus*, the one with violence and force, the other without, the one in things of greater moment, the others of less: Hence the legal tearm *petit larcens*, yet in use with the English.

LAURIA, I would read LAIRIA, for LAIRWITE LAYRWIT, or LEIRWITE, *stupri seu concubitus illegitimi mulcta in adulteros, fornicatores, virginumque corruptores animadversio* (belike in thir lines a rape, as they are expounded relative to the girth) from the Saxon LAGAN, *concumbere* LEGAR, *concubitor*, et WITE, *quasi concubitoris mulcta*. And sayes not clearly Spelman, *Ad maneriorum dominos (nescio an ad omnes ex consuetudine) olim pertinuit jurisdictio de nativis suis (id est servis et ancillis) corruptis cognoscendi multamque delinquentibus, tam viris quam fœminis inferendi ad quosdam etiam non de his solum, sed et de aliis quibuscunque intra dominium ipsorum sic peccantibus*, and have we not yet the word *laire* in childbed, *laire* and others.

LUSCOS, I do not here take to be the Latine *luscus*, but that the word should be rather written, LISCOS, for, or from FLISCOS, the letter F, being left out to make the line run the closser upon the letter L. FLISCOS, *fugitivos, fugitives*, the words *flee, flight*, and *flisk*, sufficiently known, as to flisk up and down here and there, as *fugitives* use to do, who dare not well stay long in one place, all from, or in great affinitie with Leipa, *Si quis à domino suo sine licentia discedat, ut Leipa emendetur*, which Spelman understands, *de profugo*.

ET COLOBURTOS, I read COLOVURTOS, or yet rather COLOVORTOS, or COLOVERTOS: But like the vowel *u*, is written in the third syllable, to clinch the better by *bur*,

with the last word of the line: And every Bajane knows the affinitive betwixt the letters, b and u. The signification however I take to be runaways, such as run away from their colours, and *culvertagium*, I find a reproachful term of cowardice, which Spelman thinks to come from *culvert* a dove, à *columbina timiditate*, perhaps (as well, if not better) from *vertere colobium*: sure I am, we have the word turn-coat, allusive to its sense; and may not our disdainful word *collie* derive its pedigree hence?

SIC FIT TIBI BURSEA BURTUS, and so through the amerciaments and unlaws of the above written crimes, your purse shall be heavy, that is, your gains and advantage the greater, BURSEA for BURSA, and is not the word BURTHEN, of known signification to the meanest? And thir abovementioned words would I rather, at least more especially expound with a relation to the regaltie, and its priviledges, in favours of the earle, yet not excluding some benefits of a sanctuary to the transgressours, (upon a composition) as the reader at his pleasure may best incline to. But for my own part (with a just deference to better judgements) as I should attribute the preceeding lines, rather to the regaltie, so should I give the subsequent more to the sanctuary.

EXITUS ET BLARADRUN, would I read EXITUS ET BLADADRUN, a genetive, as *maldraradrum*, from BLADE a weapon by which a mortal wound is or may be inflicted: Hence with us *blade*, a sword, or sharp edged weapon, and with the countrey men, to give a *blad*, *blaw*, or after the English dialect, a *blow*, all (it would seem) from the Greek *Βλαπτω*, *lædo*. And does not Spelman say, that the Saxons in their language agreed with, and followed much more the Græcians, then the Romans.

SIVE LIM, whether on a limb, SIVE LAM, *id est*, LATH, LITH, fra LIT, the vowel i, commuted for a, and the letter

M, for T, or TH. It being usual for the poets then, who were the priests, to run much upon a letter; and is it not given for a rule, *literæ ejusdem ordinis et organi inter se sunt permutabiles*; and here TH, being *consonans aspirata*, is not so intirely and depress'dly a *mute*, but that it may be changed for a *liquid* in a Saxon poem. LIMB, *membrum cum osse* Lith, *articulus cum nervis*. And is not *lath* used for what is plyable by, with, or on some ligament.

LABRUM, I take here to signifie *life*, by some catechresis of the author, allusive to the phrase, *Our life is in our lip*.

PROPTER MAGIDRIM, I would write, MAGIDRIN, *Familias cognationis, seu cognatorum*, from the Saxon MÆG, *Cognatus*, sayes Spelman, the diphthong being abreviated to the vowel, (as is ordinary in the transcribing or compounds of that language) MAG, MAGE, or MAGHE, a kinsman, or cousin: whence we use the word MÆCH, for *affinis*, to this hour, and HIRED, HIDRE, or HIDER, which *Verstegan* interprets a lineage, a family, HIDRIN, in the plural number: The Saxons making that by adding N, as we do now s, and leaving out the aspiration in the composition: Does not thus *Magidrin* better quadrat and agree with the priviledge Skeen gives by that Girth, to the Clanmack-duffe, then to take *propter* for *prope*, as some would, and *Magidrim* for *Mugdrim*, because forsooth, the cross stands upon, or near a place of that name: But allowing their conjecture, what sense or cohæsion can they make from this, their *prope Mugdrim*? Yet a little to convince them, dare they not rather think, their *Mugdrim* bears that name from this *Magidrin*, in the lines, and imports as much, as the land, or place lying beside, or about the cross, of the kindred. And seing there are yet the vestiges of some old buildings at *mugdrim*, would it be any heresie to think, that sometimes dwelt there an overseer, to notice such as came

to, and claimed the benefit of, the sanctuarie? which Skeen sayes, was such to the kindred of Mackduff, that when any man'slayer, being within the ninth degree of kin and bloud to Mackduffe, came to that cross, and gave nine kye and a colpindach, he was free of the slaughter committed by him. And thus hath our learned Skeen made us understand, *hoc oblatum*.

ACCIPERE SMELERIDEM, and for your oblation, receive an oblivion, an indemnitie, a pardon; whence belike we yet have the word SMEIRE, SMEARE, SMORE, as if a thing so covered over, by consequence may be presumed to be forgotten, or *smeleris, smeleridis*, (after the Greek way, as from Spelman, I have said, was but ordinarie with the Saxons) *Quasi abstersio, detersio, purgatio*, from *σμεω σμεω*, *abstergo, detergo, purgo*. I know some would have *smeleridem*, to signifie a kiss, from *smeirikin*, a word so used in some places: but sure, our *Smeleridem* here must import more otherwayes, Alas! this priviledge would prove to the manslayer, but as in the proverb, *A kiss and a drink of cold water*: But because the conjecture came (as I heard) from a man of reverence and reading, let me ingross it thus, for this your offering or gift (to wit, of the kye) and by kissing of the cross, receive ye an oblivion.

SUPER LIMPIDE LAMPIDA LABRUM, sufficiently explained already, only I could have wisht they had come to my hand under a more Saxon garb: LIMTHITE LAMTHITA, the Saxon TH, in the transcribing being often turned to B, D, or P, whether from the ignorance of the Saxon character, or *Euphoniæ gratia*, for good companies sake of the words with which they are conjoynd: And that I had reason to reduce most of these words to the Saxon, I now (from what I have said) referr to the courteous reader, and hope I shall not be judged unreasonable to think these lines, as I got them, might be miswritten in their orthography,

whether from the misunderstanding of the Saxon character, if they were so ingraven, or (after so many centuries) even of any other in which it might have been cut, since none who knows any thing, but knows it wants not its own difficulty to read but the characters of an age or two from our selves, be they written in parchment, or ingraven in brass or stone: as for instance, I shall not stick to say they be no small clerks, whom I could hold upon a wager, would they go to St. Andrews, they should hardly at the first view, read me distinctly, with one breath, the inscription of Bishop Kennedies tomb, in the Chappel of St. Salvators colledge, though he died but in the year 1466. And seing I have heard several copies and various readings of these lines (should I rather say of the inscription upon this cross) all differing amongst themselves, why may not I (seeing Skeen, of the two last which being most stufft with Latine, might be thought most legible, sayes no more, then, that they appeared to be conform to that purpose) crave leave to offer mine, which to the intelligent will not appear very dissonant from the copy I have already here transcribed, and the less will the difference yet be, to any who knows the Saxon character, yea, and what if in some characters our predecessours wrote not as the English? does not every language have its dialects differing sometimes in whole syllabifications, as in the lettering, writing, and pronunciation, (not to speak of the injuries of weather in so long a tract of time) so upon all adventures, I willingly would rectifie and read my copy thus,

MALDRARADRUM DRAGOS MAIRIA LACHSLITA LARGOS

SPALANDO SPADOS SIVE NIG FIG KNIGHTHITE GNAROS

LOTHEA LEUDISCOS LABICINGEN LAIRIA LISCOS

ET COLOVURTOS SIC FIT TIBI BURSIA BURTUS

EXITUS ET BLARADRUM SIVE LIM SIVE LAM SIVE LABRUM

PROPTER MAGIDRIN ET HOC OBLATUM

ACCIPERE SMELERIDEM SUPER LIMTHIDE LAMTHIDA LABRUM.

And this my reading with thir orthographical amendments, I submit to the discretion of the judicious, allowing any to use either the Roman p or the Saxon TH, in what words I have here altered as they think fit, or shall agree best with their ear and fancy. And having already been so full upon every word, I hope a closs interpretation needs not to be here expected, because belike it may relish better, that (from what I have said) every man be his own interpreter. Yet not too much to burden the memory of the reader, may I briefly paraphrase it; for a verbatim exposition here, as in all the old tongues (and they say the Teutonick, whereof the Saxon is but a branch, came with Twisco from Babel), would sound a little harsh, as well in respect of the idiotisms of the two languages, as that most of the words are legal terms, or relating thereto, and so will hardly allow a narrow and precise exposition: and although the ground work be Saxon, yet appears it under a Latine mask; therefore as I said, I crave pardon to paraphrase it under one view thus:—

“ Ye Earl of Fyfe, receive for your services, as my
 “ lieutenant by right of this regality, large measures
 “ of victual or corn, for the transgressions of the
 “ laws, as well from those as want or put away their
 “ weapons of warfare, as of such as stays away from,
 “ or refuses to come to the host, or those that raises
 “ frayes or disturbances therein, or from such as keep,
 “ haunt, and frequent unlawful convocations; together
 “ with all amerciaments due to me, for the
 “ slaughter of a free leige, or for robbery and theft,
 “ or for adultery and fornication within your bounds,
 “ with the unlaws of fugitives, and the penalties due
 “ by such cowards as deserts the host, or runs away

“ from their collours ; thus shall your gains be the
 “ greater. And yet further, to witness my kindness,
 “ I remit to those of your own kindred, all issues of
 “ wounds, be it of limb, lith, or life, in swa far as
 “ for this offering (to wit, of nine kyne and a
 “ queyoch) they shall be indemnified for limb, lith,
 “ or life.”

And thus have I adventured to read and explain this old inscription, *quae multa tenet antequa sepolta* ; and which, with Skeen’s good leave, I can no otherwise condemn for barbarous, then that it is Saxon under a Latine cover ; where it would be remembred, that after the Goths and Vandals came into Italy, the purity of the Roman tongue was at a loss, untill somewhat revived in the last centurie, and that the poets about Malcome Canmore’s time were ordinarily the priests, and those of no great reading, and for the most part no great and exact linguists, or so neat and closs in their poesie, as witness that composition of the Carmelite frier’s upon the battel of Bannockburn, some hundreds of years after the setting up of this Cross : And as this was one of, if not the oldest regality in this countrey, so by the priviledges hereby granted, it will to any understanding man appear to be very great ; whence belike we have that common phrase, *The kingdom of Fife*, (an epithet given to no other shire) as if Mackduff had enjoyed his estate much after the way of Hugh Lupus (or more properly de Abrincis) in his earldom of Chester, of whom it is said, he enjoyed that earldom from his uncle the Conqueror, *Adeo libere ad gladium, sicut ipse rex tenebat totam Angliam ad coronam* ; and yet I cannot affirm that Fife was ever a palatinate ; but sure the priviledges of this regality and sanctuary were somewhat more then ordinary.

And this our Mackduff's posterity continued in a line-male till the dayes of king David the Bruce: for one of them I find governour of Perth for the second Baliol, after the battel of Duplin, for which, whether he was forfaulted, or that his estate and honours, through want of issue-male, went with a daughter, I cannot positively averr: for, one William Earl of Fife I find a witness in a charter, granted by king David II. to the Scrimzeour of Didupe, in the 29 year of his reign, whom I conceive to be that William Ramsay said by Skeen to have been made Earl of Fife by king David, with all priviledges, *et cum lege quæ vocatur Clanmackduff*, who might have married a daughter of Earl Duncans, as well because he got all the old priviledges confirmed to him, as that in the Scrimzeours charter, he is placed before the Earle of March; it not being so probable that the king would have given the priviledges, and precedencie of the old Earles of Fyfe to a new stranger, if he had not had an interest of bloud. And why should we too rashly conclude that noble familie, whose predecessors had deserved so well of the crown, extinct upon a forefaultour for holding the town of Perth for the second Baliol: since our historian sayes no more, but that he was sent prisoner to the castle of Kildrummie, and that he makes him also a prisoner to the Baliol, with the Earles of Murray, Monteth, and others; who, as he sayes, after the battel of Duplin, were *rebus desperatis coacti jurare in verba Balioli*.

Neither were the Bruces too strick and severe in their forefaultours, (but upon great and singular provocations) studying rather to gain and reconcile the subject by indemnities, and oblivions, then to exasperate them by too sharp punishments (especially when the Baliols had some pretence and shadow of right). But what became of this

William Ramsay, I cannot say; whether he was fore-faulted, or whether through want of issue, the earledom of Fyfe returned to the crown, or whether he had a daughter who was married to Robert the governour, who enjoyed the estate and honours of Fyfe: But if as full in its priviledges as the old Mackduffs, or William Ramsay, I dare not determine. But Skeen does positively tell us, that one Spence of Wormeston laid claim to, and enjoyed the priviledge of the sanctuarie, upon his killing of one Kinninmonth, as being within the degrees of kindred to Mackduffe.

The Earle of Weems, and the Laird of Mackintosh speak themselves truely descended in a line male from this our Mackduffe, by two of his sons; but since I have seen nothing in write, as I shall be tender of their honour, not doubting but that they are sufficiently able from good documents, to evince their assertions to any who may be concerned; so I hope, it shall give no offence, though I glance at what I have from tradition. Mackintosh then (be he the elder or the younger brother) in his mother tongue calls himself to this very day, MAKTOSICH-VICHDHUIE, (that is, *Filius Thani, filii Duffi*: the son of the Thane, who was the son of Duffe) whose predecessor some three or four generations down from Mackduffe, was in the days of K. William the Lyon, by means of his uncle Mackdonald of the Isles, matched to the heretrix of the Clanchattan, by whom he got the lordship of Lochaber: the jurisdiction or stewartrie whereof, as the Laird of Mackintosh yet retains, so quarters he the coat of Mackduffe in the chief corner of his shield. The Earl of Weems (be he from the younger brother or elder) yet possesses for his inheritance, a part of the old Mackduff's estate in Fyfe: And whose progenitor, Sir David Weems, ambassador for the Maiden of Norway upon the death of

K. Alexander the Third, is by Buchanan (nothing lavish of his titles) styled *Equus Fifanus illustris*. And doth not the Earle of Weems quarter also the armes of the Earle of Fyfe, in his first and last escutcheons.

But as upon conference, I have met with an objection or two, so indulge me, Reader, I pray, for your fuller satisfaction, briefly here to repeat them with my answers : which (seing I leave every man to his own judgement) may I hope, be neither an impertinent, nor altogether an unpleasant diversion.

First then, was it alledged, that neither Mackintosh, nor Weems, give the surname of Mackduffe : And what then ? Will any pretender to the least knowledge of any antiquity, or reading, urge the argument as conclusive, that therefore they are not of the same stock, or blood ; yea, even by a line male. But (not here to debate, whether at that time any other surnames, then patronymicks, were fixed to a family or progeny) can there be a clearer deduction then Duffi, Mackduffe (who was the Thane) and Macktosich-Vichdhuie, or would the movers of this objection, put me upon the question, when surnames (as now in use) first settled amongst us ? And what if that was not before, perhaps considerably after, the days of Macolm-Canmore (I wish those disputants would be pleased to teach me, what were the surnames of the old Earles of Stratherne, Lennox, and Rosse.) Yea, and does not the native exposition of Mackintosh, imply him begotten (and perchance he was of age too) ere Mackduffe was dignified with the title of Earle, and consequently, before the return of Malcolm Canmore, with whom (some say) first came in as well that order of honour, as the customes of our surnames. And seing Weems was Mackintosh's brother, might not he have been (and if elder surely, and even though the younger belike) in the

same condition, begot before his father went to England, seing Buchanan sayes of Mackbeth, that upon Mackduff's escape, *in uxorem & liberos omnem iram effudit*: The latitude whereof I leave to be measured by such, who can best fathom the passions of an exasperated tyrant. But what if I should say, as Boetius observeth upon the Stuarts in a much later time, that it was customary with us (as yet somewhat it is with the second barons in France) for cadets to quit the surnames, they might have from their paternal familie, and betake themselves and their posteritie to others, and most ordinarily to the names of their proper possessions (as Weems here, from that word signifying caves, whereof there be no scarcity thereabout) and so much the more easily in this case, where the paternal itself Macduffe, is but a patronymick. Yet shall I not escape without a second attaque, managed with I know not what confidence: to wit, that Mackduffes race, save in Mackintosh and Weems, continued not above a generation or two: sure then, has our Buchanan exceedingly abus'd us; who all alongst, even down to the battel of Duplin, and the siege of Perth thereupon, writes them still Mackduff; his words in his ninth book, being, *Mackduffus, Fifae Comes qui oppidum Balioli nomine tenuerat*, and a little before that above-cited place, yet more particularly, *Duncanus Mackduffus, Fifensis Comes* (with others) *apud Hostem captivus*. And as all our writers do unanimously rank this Duncan the first secular of the six governours, after the death of K. Alexander the Third, so have I myself read him, in a letter from the parliament at Abirbrothock to the Pope, *anno* 1320. First of all named, and signing as earle primier of the kingdom, where his seal yet appends fresh, four times bigger then any of the rest, with the impresse as they record the armes in the books of herauldrie for the old Earles of Fyfe, and as

yet they are quartered by Mackintosh and Weems. But thirdly, it is retorted upon me, that if the Earle of Weems, and Laird of Mackintosh, had been true cadets in a line male, then if the Mackduff of Fyfe had not been forefaulted, one or other of them would undoubtedly, as the nearest heir male, have fallen to, and enjoy'd, if not the estate, at least the honours of Fyfe. But the starters of this doubt, would be pleased to remember the slipperiness of its grounds; for are not feudal tailzies, and seclusive provisions to heirs male, of a far later date with us: and so might that earldom as well in its honours, as fortune, have gone with a daughter (as heir of line) to William Ramsay, and by a grand-child to Robert Stuart: yea, and who well knows in what terms our grants of honour, (if then in Malcom Canmor's days consigned to writ) were conceived, or if they reached collaterals? And the predecessors of the Earle of Weems and Laird of Mackintosh, having come off many generations before the familie failed in the issue male, the honours might (the relation being remote) the more readily have been conveyed by a new patent, with a daughter or oye in favours of some noble minion, such as (belike was this William Ramsay, and) that Robert Stuart the Kings second son, who was sometimes governour of Scotland, and Duke of Albanie, in the person of whose son, Duke Murdoch, was that earldom forefaulted to the crown, in the days of K. James the First, and not as yet given out again, none ever since enjoying the title and dignity of Earle of Fyfe.

But having thus far presumed upon, if not quite wearied your patience, in this so thornie and mistie affair; I must now, courteous reader, stand to the discretion of your censure, where I shall allow you, that

If on the other hand you will be pleased to grant me,

Fidum annalium genus, sunt pervetusta carmina.

And suffer me to conclude with what Skeen closeth the preface to his *De verborum significatione*,

Si quid novisti rectius istis,
Candidus imperti : si non, his utere mecum.

THAT, gentle reader, I may conceale you nothing ; just now, as it was a doing under the irons, am I told there is an exact coppie, with a true exposition of this inscription at the Newburgh,* in the hands, or books of the clerk there : and yet my informer, though with us a good antiquarie and historian, could neither tell me the lines, nor the exposition. And pitie it were, that so old and famous a monument in this our kingdom, should be so closlie dormant, in a poor countrey-village, without being communicate (for ought I know) to any : for it should seem, our clerk-register Skeen, had neither seen nor heard of it, otherwayes (me thinks) he would hardly have called the lines so barbarous. But this, however, I hope may invite those of the Newburgh, to divulge it, (if any such thing they have) for it is onely truth, (not vanity) that here I am in quest of. And as this my weak Essay, I have adventured upon, without the help of any living : so crave I it no other patron, but, courteous reader, your own candour and ingenuity.

* Vide Sir James Dalrymple's second edition of *Cambden's Description of Scotland*, pages 134, 135, or Sibbald's *Fife*, (folio edition) pages 98 and 99, for a very different version of the Inscription, with a paraphrase in *English Rhime* ; taken from the papers " of one Douglass, in Newburgh." R. B.

MEMOIRS
RELATING TO
THE RESTORATION
OF
KING JAMES I. OF SCOTLAND.*

"Some future truths were mingled in his book,
And where the witness fail'd, the prophet spoke."—DRYDEN.

AFTER the late attempts that have been made in favour of the pretender, the word Restoration, and the name of King James, may give some alarm to men, who consider words more than things: as therefore I have no design of offending any person, or either of flattering or exasperating any party, so to avoid being misunderstood, I must desire the reader to observe, that I write of matters which happened about three hundred years ago, of the persons of those times, and of James, the first of that name, King of Scotland.

Almost every book, every pamphlet writ of late years, numberless half sheets, with fine odd titles, Tatlers, Examiners, Medleys, Spectators, Observators, Mercators, the English-man, the Tea-Table, Town-Talk, Freeholder, &c., have all begun or ended in politics, or what is mo-

* LONDON: Printed for W. Jones, at the Black-Raven in the Poultry. 1716.
12mo. Pp. 26.

dernly call'd so. Nay, all conversation in visits, taverns, and coffee-houses, has the same tendency. A real regard for the ancient fundamental constitution, methods to support the dignity of the crown at home and abroad, to secure the liberties of the subject in person and in property, and to maintain and encrease trade, were, heretofore, the aim of politicians, and doubtless is so still in those whose business, by their stations, it ought to be. But men of the meanest rank, seem to have taken the consideration of these weighty matters out of the proper hands, and have assumed to themselves the care and office of a minister of state. And as the intermeddling in these affairs is, in most of these, officious and impertinent, so are the methods they have taken wicked and invidious; for all their art and labours are employed in party-rage, in fomenting the nation, and in exasperating one party or sect against the other: and he is accounted the best author and finest wit, who writes the bitterest invective against the Tories or against the Whigs.

Some men would think it a prejudice to their preferment, as perhaps my printer may to the sale of this, to declare themselves not to be embarked in any party; however, I think it necessary in me to do it, that whoever is disposed to trifle away a few minuts in reading this, may, if it be now possible, do it impartially, and not puzzle themselves with refinements and unnatural deductions. The best writers have not escap'd censure, but in recompence, the labours of comentators have discover'd beauties in them, which, possibly, the authors never conceiv'd. To one in a low class, it may be his chance, not only to have real faults expos'd, but to have views and designs imputed to him which never enter'd his thoughts. I wish not to incur the last, and as for the rest, I freely resign this to their censure, provided that in doing it they give

themselves no more disturbance than probably they will me.

But to prevent the one, and moderate the other, as far as I am capable, let the courteous and candid reader be pleas'd to know, that my curiosity was incited to make some particular enquiries after the life of King James the First of Scotland, from the excellent qualifications ascrib'd to him by several authors of different nations; and my post in the army requiring me to spend some months lately at Edinburgh and Sterling, from hence I had an opportunity of learning several particulars from some ingenious Scots gentlemen, relating to that Prince, and of viewing records which contain many circumstances of those times, and of the disposition of the people, not yet, as I conceive, made publick; and from hence I resolv'd to digest into some method, what I had separately read and heard concerning this Prince, for an amusement in my quarters: and so far, I am sure this has answer'd my end.

My design being only to give an account of the reasons which prevail'd with the Scots, to recall their lawful sovereign King James, and of the state of their affairs at that time, there will be no occasion to recur farther into their history, than to the life of his father Robert the III^d., nor to mention more particulars of that, than will be necessary to explain and introduce the causes of this surprising Revolution.

Robert [Stewart] the Third, was christened John, but that being look'd on as a name, in Kings, unlucky to other countries, as well as to their own; the superstition of the age was so great, that by a decree of the state it was chang'd from John to Robert.

Hector Boetius describes him affable, merciful, an enemy to extortions, charitable and pious. Buchanan, with his usual severity, mentions him thus, *Robertus tertius cum vitiis magis careret, quam virtutibus esset illustris*, as rather free of vice, than renown'd for virtue; yet, it is likely, his character is not impair'd by this author, because, though the name of king remain'd with him, the power was lodg'd in his brother Robert, with the appellation of governour.

A man of unbounded ambition, and determining to preserve the authority of the king to himself, without the name, for that would have too much awaken'd and shok'd the loyalty of the nation in those times, and to transmit it to his posterity; King Robert's eldest son, David, having render'd himself odious to the people, by his wicked libidinous practices, the governour, Robert, prevail'd to have him delivered to his custody, which was no sooner done but he committed him prisoner to the castle of St. Andrews: but that place being too near the king, and the observation of the court, he removed him to Faukland, a strong castle in his own jurisdiction, ordered him to be thrown into a dungeon, and that no food should be given him. His keepers paid exact obedience to the orders, but were surprised at the continuance of his life: at length they discover'd that he was supported by the charity of the daughter of the keeper of the castle, and of a country nurse. The former nourish'd him with little pieces of oaten cakes, which she convey'd to him thro' chinks; the other gave him suck thro' a small cane, one end of which he held in his mouth, while she squeez'd her milk into the other. But their tenderness had a barbarous recompence; for it being discover'd, the keeper accused his own daughter to the governour, and

both the poor good women were put to death. Prince David, deprived of this slender nourishment, soon after died, having first torn his flesh and eat his fingers.

This barbarity was exceedingly resented by the king; but unable to revenge himself, and lest his second son James, a youth of wonderful expectation, should undergo the same fate; since it was not likely that the person who had committed so horrid a treason, would have any scruple to murder him also, he was advised to send him to France. The young prince was with much secrecy embark'd, Henry Sinclair, Earl of the Orcades, being appointed his governour: but having cast anchor before Flamborough in England, they were known to be Scots, and the prince being discover'd, he was detain'd, and carry'd to the English court. His father, fearing such an encounter, had given him a letter to King Henry the Fourth, which, tho' full of compassion and pity, did not alter the resolution of keeping him: so that King Robert being old and deprived of his sons, gave himself over to grief, wou'd take no meat, and in three days died of mere sorrow. *Biondi's Civil wars of England*, p. 84.

By the decease of the father, and the absence of the son, Robert the governour was wholly invested with all the regal authority, without having the splendour of his power eclipsed even by the name of king; for he possessed all but the name before, and he was too wise to demand more now.

There wanted not a party of men, who would always have supported King Robert in all lawful and honourable designs, who mourned to see him misled, and the monarchy reduced to so low and dependant a state; and who, mindful of their obligations to the royal family of the Stewarts, and conscious of divine and humane laws, publickly asserted, or in secret own'd the young king's

right to the crown ; yet their chiefs judged it not prudent nor politick to attempt the Restoration while so many men remain'd in being, and enjoy'd the great and profitable offices of the kingdom, who had contributed to depress the father, and exclude the son. Through a tenderness, or rather weakness of nature, they declined doing an act they confess'd just and honest, lest it might be the means of spilling a drop of blood, or wasting a penny of money ; and yet by the forbearance, they were gradually forced into such measures, they acknowledged wicked and unreasonable, as occasioned millions of lives to be sacrificed, and impoverish'd their country for ages to come.

The generality of all ranks and conditions of men were so affectionate to the royal line of the Stewarts, that nothing seem'd necessary to the restoration of King James, but to attempt it, and therefore many men bore the delay with more impatience. But this very affection and veneration prevented it ; for tho' they looked on the governour as unjustly possess'd of power, yet they cou'd not intend ill to the person of him, who was so nearly ally'd to their lawful king.

It is true, some of their kings had been assassinated and murder'd ; but the traitors were always prosecuted with severity, and brought to condign punishment : and sure it is as unreasonable to brand a whole nation with the odious crime of rebellion, because some few are guilty, as it wou'd be to deem them all highwaymen, because there are some robberies ; or to term all homicides, because a murder was now and then committed.

Besides the advantage the governour Robert deduced from being of the name of Stewart, and so near in blood to the king, he was a man well skill'd in the arts of government, and of good experience in war ; and tho' the people were much more grievously oppressed with

taxes during his administration, than they were by their lawful kings, putting them altogether, yet he preserved his power, and without violent disquiet, died possess'd of it, fifteen years after the death of Robert the Third, in the year 1420.

His son Mordecai succeeded him in place and title, but very unequal to the task. Buchanan says, "*Sufficitur in locum ejus Mordacus filius, ingenio segnis, ac non modo ad rem publicam, sed ne ad domesticam quidem regendam satis idoneus;*" that he was of a dull understanding, and not only unfit to govern the public, but even to look after his own private affairs.

Notwithstanding this, contrary to the inclinations of all the people, and to the expectation of all Europe, he took possession of the office of government without any manner of opposition or disturbance; for some men were so harden'd in their iniquities, that those actions which they at first excused, they now justified; what formerly they advanced might be done in cases of the utmost necessity, and stated some, which never did, nor never could happen, they now declared might be put in practice whenever they thought fitting. Some of the contrary party wanted spirit or industry: and others, whose fine understandings were obscured by too much caution, and were become blind by being too quick sighted, cry'd, it was not now a proper season, foresaw strange difficulties, and advised waiting yet a little longer; and thus starting at imaginary distant dangers, they quietly and composedly submitted to real present ones. There were others, and those not a few, who never gave themselves any concern for their posterity, nor regarded who enjoy'd the government, or by what right it was obtain'd, provided they might indulge their own appetites, and lord it over their own followers; tho' they daily saw their privileges invaded, and even

their darling liberty become so precarious, that it was in the power of every wrangling neighbour, or surly officer, to deprive them of it, by trifling and groundless informations. And there were others, who fancy'd that the supreme power, tho' illegally and unjustly obtain'd, might be lawfully not only submitted to, but supported; that a succession of two or three usurpers gave them a right, and debarr'd the next undoubted lawful heir; as if his title could be impaired by a repetition of injuries to him; as if a premeditated sin was more excusable than a rash one, and perseverance in it the way to obtain forgiveness and mercy.

From this fatal disposition in the minds of men, it was believed Mordecai might have maintained his power a considerable time, had he taken a wholesome counsel, and pursu'd gentle and temperate measures, or had not been worried and tormented by an odd, fantastick, perverse son.

His predecessor, tho' of too ambitious a nature, was endowed with many good qualities, and his name and memory were held in great veneration by the people; and therefore, when those men whom he most valued and entrusted were displaced, and those who traduced his reputation, and whom he held in utter detestation, were appointed by Mordecai for his counsellors, it was look'd upon as an ill omen to his future peace and honour, or to the continuance of his government.

These men advised the usurper immediately, even before he had taken full possession of his authority, to remove all persons from their offices who had been preferred or employ'd by the former governour. They alledged, that he had projected a design of recalling King James, and that all his counsel had combin'd in it; that they had been selected wholly with that view; and, that

they had proceeded so far in it, that had not death seasonably interpos'd, his succession to the government had been wholly defeated ; that if they were men of no religion and morals, they were unworthy to be employ'd (a strange argument out of such mouths), and if they were, it would be his direct ruin to intrust those, who by the principles they profess'd were indispensably obliged to restore the king : for at the very same time they profess'd obedience to his father, and had sworn not to admit the return of King James, they were guilty of the incongruity to own the legality of his title, and that no act of man could deface his right, since they asserted that to be both by divine, and by the laws of the land, hereditary, unalienable, and indefeasible. And indeed it is look'd upon with astonishment by their posterity, how a party professing a strict regard to religion and such principles, should never put them in practice, when they boasted, and their enemies own'd, that they were by much their superiors in birth, fortune, and in numbers.

But whatever force these reasons ought to have had with the usurper, he is censured for proceeding to the alterations in such a hurry, and in a manner so disobliging. The first instance he gave of authority was discharging Julio from his employment, a young nobleman of great interest, and whose abilities all the usurper's faction dreaded. The second was dispossessing Marcellus of all the great offices he enjoy'd under the crown ; and that too must have been in the most uncivil disrespectful manner, because the most brutal ungracious man in the nation was employ'd with the message.

It is easy to conceive how the whole kingdom resented this treatment of Marcellus, since he is represented as the most popular man that ever it produced, a consequence of the character historians have left us of him. He was

descended from one of the most ancient and most illustrious houses in that nation, and it was look'd on as hereditary in him, to be professor of such qualifications as render'd him the favourite of his prince, the darling of the people, the ornament of his country, and the admiration and delight of strangers.

It was inherent to his blood to enterprize great and noble actions : Never was seen in man, a courage more sedate, firm, and intrepid, than in him. The labours and fatigues he cheerfully, and by choice, underwent in camps, soon won him the affection of the soldiers ; the hazards he seem'd to court, without vanity or affectation, and the wounds he receiv'd, procur'd to him eternal fame, and his unweary'd application to the art of war, obtain'd to him the reputation of one of the best captains of that age.

He was accounted the best-bred man of his time, and of such nice honour, goodness and integrity, that no design ever had harbour in his breast, but what tended to the glory of his prince, the service of his country, and the benefit of mankind ; and it was remarkable of him, that he never did a rude thing, never said a harsh one, nor ever even thought an unjust one.

His generosity never admitted him to refuse a favour, and his charity never wanted a demand. His house was the resort of the great for honest pleasures, and the sure refuge of the unhappy for relief. He reliev'd crowds with his money, and preferr'd multitudes with his power : And from hence unworthy detractors took occasion to say, he did not enough distinguish mankind in conferring his favours. It is confess'd he found many most notoriously ungrateful ; a complaint no great man was ever exempt from making ; but sure the crime of ingratitude in the receiver, is not to be imputed a fault in the benefactor. And if it was his misfortune, especially in the

army, to meet with more men guilty of that sin, than any other had done, it is owing to the degeneracy and corruption of humane nature, there are more bad men than good ; and therefore he must needs have found more men ungrateful than any other, because he had oblig'd more men than any other.

Tho' in secret he ever lamented the hard fate of King James, yet the natural propensity he had to arms, and his thirst for glory, engag'd him in those wars Robert the governor had with England. It griev'd him to fight against a prince who only was in a capacity of restoring his lawful king ; but he thought it necessary to the universal good, that a stop should be put to the victorious arms of the Henries, as the only means to preserve the liberties and bounds of his own country : For the prosperity and honour of that, he was unwearied in his diligence, expended vast sums, suffer'd imprisonment, and receiv'd dangerous wounds. He comforted himself by a firm reliance, that God, in his own good time, would bow the hearts of his countrymen as one man, and incline them to say to the king, " Return thou and all thy servants."

When Marcellus, notwithstanding all his virtues, all his interests, all his popularity, was thus degraded, no one of his party expected better treatment. The most unworthy usage he met was so resented, that some (whom the usurper's faction thought to flatter into a loss of their honour, or to shield themselves by their virtues, or to strengthen themselves by their abilities) refus'd accepting the most profitable offices, others generously threw them up ; and to be displac'd was accounted an instance of a man's honour and integrity.

From hence a generation of vipers unknown, unheard of, worm'd themselves into employments, and were pro-

moted to dignity. Religion was publickly scoff'd at, liberty grew uncertain, property was invaded, law perverted; and which, if in the least attempted by their lawful kings, would have been to them a reason of rebellion; the ancient, fundamental, invaluable decrees of the state were suspended, altered, and repealed, under the pretence of publick safety, but indeed to gratify private malice and resentment.

Considering their circumstances and the times, immense sums of money were granted, which were rigorously exacted, and most profusely squander'd: So that the publick labour'd under vast debts, the ancient wealthy families were impoverish'd and depress'd, while the scum of the people were suddenly rais'd to riches, and wallow'd in plenty and luxury.

Their own creatures were indulged in, nay, rewarded for the most licentious words and profligate behaviour; while for the slightest transgression, even an intention towards one, by wresting the law, and by forced implication, all others were fin'd, imprison'd, banish'd, whipp'd, pillory'd.

When the state was in this languishing condition, it may be taken for granted, that the church was neglected. For had her doctrines been honestly and boldly inculcated among the people, the monarchy could never have been so depress'd; nor is it possible ever to wound the church, unless her own ministers take arms against her. The best and ablest of her doctors were inhumanely treated, and illegally persecuted; those who were spared were forced to conceal their real sentiments, and those who found favour made it their merit to pervert the gospel. Hence sprung such confusions and various interpretations, that Archbishop Spotswood, in his History of the Church of Scotland, assures us, "That there was at this

time a fearful schism in the church, of all that we do read the most scandalous, and of longest continuance; which did so divide the Christian world, and made such part-takings as were pitiful. This schism lasting 29 years and more."—Page 56.

The usurper's faction were intelligent enough, to discover that they were detested by the majority of that warlike nation for these monstrous proceedings, but they thought themselves secure from the anger of a divinity, because few of them believ'd in one; and from the resentment of the people, having obtruded into the pulpit, and on the bench, expositors of the gospel, and of the law, who were obsequious to their dictates; and having rais'd an army, whose officers, at least, were wild and irreligious enough to be firm to their interest, as they conceited.

For their farther security, they sought to strengthen themselves by foreign alliances, and to engage those the more strictly in their support, they sacrificed to them the trade, the interest, and the honour of their own country: And as the landed interest was destroy'd to enrich stock-jobbers, so the fair trader was undermin'd and ruin'd, to gratify forreigners.

By these severities and boasted power, the royalists were so unaccountably intimidated, that they suffer'd so great a number of their friends to be at once groundlesly incarcerated, as were alone sufficient to have restored the King, and vanquish'd the opposers; and tamely heard a doctrine publickly asserted, that the usurper having lost the affections of the people, they were to be rul'd by force. In which declaration, whether the madness or wickedness was greater, would puzzle one to distinguish; For sure, as no wise government ever made such a con-

fession of their miserable condition, so no good one ever executed such a remedy for their security.

There wanted not, however, some sedate men in the usurper's interest, who laid before him the odiousness of such doctrine, in a nation even infatuated with the love of liberty, and of the dangers with which he was surrounded, by subscribing to such advice. But Mordecai having neither judgment sufficient to pursue good counsel, nor resolution to extricate himself from bad, discountenanced them for their wholesome advice, and suffer'd himself to be led daily into fresh errors.

And historians suppose, he would never have been roused to a sense of duty to the lawful king, but remain'd contented with the name and appearance of sovereign power, and with being indulged in his low pleasures, had he not been tormented with the perverse temper, and terrify'd with the insolence of Walter his untoward son.

Mordecai was continually slighted and thwarted by Walter, and had no resource, for with much ado he began to comprehend, that he was held in no esteem by even his own council. This was sufficient to make the dullest brain perceive, that his shadow of government could be of no long duration; or if it were, yet it must be in so wretched and precarious a manner, that a private life was much more eligible: and what chiefly confirm'd him in this opinion, was, that he had not only lost the affections of the people, but that King James had gain'd them.

That young prince had already given the most undeniable testimonies of the firmest resolution, and the most intrepid courage; and a peace lately concluded between Scotland and England, having given opportunity to many of the young nobility and gentry to travel into England,

they brought back such accounts of him, as made the whole kingdom enamour'd with his character: Nor was it a small inducement to their affection, that he entertain'd his own countrymen in their own dialect, with great propriety and elegance, notwithstanding his foreign education.

The brightness of his parts and his quickness of conception, was matter of surprise and discourse to the English court, and his innate sweetness of temper and strict love of truth, charm'd all mankind. These endowments had so endear'd him to the King of England, that all imaginable care was taken for the improvement of his mind, and for his instruction in all princely exercises.

Buchanan says of him, that he was *Rex longe optimus*, by much the best of Kings. Biondi, p. 84, pays this compliment to Scotsmen, they are naturally given to all discipline, as well speculative as active, ingenious at sciences, stout and valiant in war. But that this Prince outdid them all, in aptness to all these, for he surpassed his teachers, as well in horsemanship, as in theology, philosophy, and other liberal sciences; especially in music and poetry, wherein he proved most expert: so as, that fortune which was thought unhappy, crowned him with glory.

And what is yet more excellent, he is celebrated for his virtue, and the encouragement he gave to learning: Archbishop Spotswood tells us, that King James the First, at his return from England, did greatly advance this work (founding the University at St. Andrews), by the encouragement he gave to studies; for not only did he countenance professors with his presence at their lectures, but also took order that none should be preferred to any benefice, unless it were testify'd by them, that the person recommended had made a considerable

progress in learning, &c. This that good King esteemed to be the most sure and easy way for banishing ignorance forth of the church. P. 57.

It was no wonder then that the nation impatiently longed for the return of such a Prince, or that they could no longer support the cruelties and arbitrary proceedings of the faction, employed by the heavy Usurper and his obdurate Son.

For Walter was the perfect reverse of King James ; a grossness of understanding rendered him incapable of instruction, a conceited arrogance made him despise any, and his teachers of exercises soon found it a vain task, to endeavour to correct the affectation of his motions, and the awkwardness of his behaviour.

The two qualities most notorious in him, were cruelty and pride, which instigated him to persecute King James's friends with the utmost rigour and inhumanity, and to treat his fathers, with neglect and indignity.

Thus qualify'd in mind, and thus accomplish'd in body, he soon became the derision and aversion of all mankind, even of those who follow'd or accompany'd him, to gratify their avarice by the offices they held under him, or to shield them by his power, in the indulging their profligate habits. The chief of his favourites was Calen Campbell, but being a man of spirit and vivacity, he grew at last weary of Walter's eggregious follies, and being provok'd by some unworthy treatment he receiv'd, he was very instrumental, as Buchanan assures, in the restoration of King James.

Without offence be it said, it is to be fear'd, few men are found honest and brave enough to divulge the real motive, the first spring of their actions. In private affairs they dissemble, and in public ones they dread or are ashamed to lay it open. Passion, resentment, disappoint-

ments, ambition, pride, avarice, want, hopes of getting, fears of losing, first engage men in their attempts, and then it is easy and plausible to veil them over with love of their country and public good. Thus Mordecai had no sense of the witchcraft of rebellion, and of the flagrant sin of usurpation, while he fancy'd himself sure in his ill-got power ; and his first design of recalling King James proceeded from an apprehension of a general revolt of the people, and from resentment of a fresh insult he receiv'd from his goodly son, which hap'n'd after this manner.

Mordecai was a great lover of hawking, a day was appointed for that recreation, and his son would needs accompany him, a thing which very rarely hap'n'd, and when it did, they were so far from having any conversation together, that they remarkably avoided turning their eyes on each other ; and when by chance they did, in the father's looks might be discover'd a sort of contemptuous pity, in the son's a haughty thoughtlessness, in both, distaste of each other.

The uncouth Walter wou'd, however, condescend to speak, when he had a mind to get what he was sure his father had no inclination to grant ; and therefore riding briskly up to him, in a rude manner, he demanded Mordecai to give him that falcon which sate on his hand, and of which he was particularly fond.

The usurper with civility enough refus'd to give him that particular hawk, in which he took much delight, and had train'd himself, yet profer'd him the choice of any other ; but the son, impatient of any denial, suddainly seiz'd the poor bird, as it perch'd on his father's hand, and in a rage barb'rously wrung the innocent creatures head off.

The whole company star'd with amazement on each other, at the cruelty and insolence of the action; and the usurper, tho' his chief talent lay in dissimulation, could not forbear telling him, that since he had in vain us'd all means possible to bring him to obedience, he was resolv'd to find out one, whom both should be forced to obey, and so retired from the field with publick marks of anger and revenge.

This wild action therefore at least determined him to recal King James, and free himself at once from a government he knew not how to manage, and from his continual fears of being depos'd or assassinated by his graceless son.

But as he was incapable of projecting so great a design himself, so he was utterly at a loss with whom to advise, that he might be enabled to accomplish such an affair. His own council had acted so desperately, and gone such great lengths in opposing and groundlessly traducing King James, that their own ill consciences made them despair of pardon, or an oblivion of their crimes, however generous or merciful that prince was represented to be; at least they could not reasonably expect to preserve those profitable offices they now enjoy'd; and therefore to entrust men wholly guided by their fears or their interest, wou'd not only prevent the design, but prove destructive to himself.

At length it pleased God, in compassion to the divisions and confusions the kingdom labour'd under, and to the miseries impending over their head, to inspire him with wisdom and resolution enough to open his thoughts to the disobliged Calen Campbell, who advised him to consult with Marcellus and Marcus on the subject.

Marcus was of illustrious birth, and one of the most

consummate statesmen of his time: his integrity to his lawful king was undoubted, his abilities were highly extoll'd, even by his enemies, and his courage and conduct had formerly almost accomplish'd the *restoration of the king*, and the subversion of the usurpation. He was affable to all men, and extremely engaging in his conversation; at the same time that he won their affections, he engaged their respect. His family ever had a vast interest in the Highlands, and he had much improved it by address and vertues. Tho' his life had hitherto been employ'd in civil affairs, yet he no sooner had appear'd in arms, than he seem'd to have been educated in camps. He gave such proper orders, and took such prudent measures, that with his few undisciplin'd unarm'd men, he became terrible to veteran troops, and was esteemed a most expert general.

There was no difficulty to influence Mordecai to this choice; the only one was, how to have a conference with them; for the generous efforts of Marcus for the liberty of his country, and restoration of his wrong'd king, having been frustrated by the contentions among some of his friends, and by the infamous treachery of others, he had been forced, with many other worthies, to follow the example of Marcellus, and seek for shelter in England.

Calen Campbell counsell'd the usurper to pretend himself indisposed; and that his physicians advised him to change of air and exercise; and as well for this, as to have a watchful eye on the motions of the English, to publish his resolutions to make a progress towards the borders, and drink the waters of Scarborough; and it being necessary for that end to demand leave of the English king, under colour of that, a letter was sent to Marcellus and Marcus, entreating them to give the Usurper a

private meeting at that place, with such others as they could confide in.

At first view they thought it not prudent to put themselves into his hands; but fear could get no admission into such breasts, and they were too honest and generous themselves to have too much suspicion of others. Duty to their king, and love to their native country, soon determin'd them; and therefore, with all possible dispatch and the greatest privacy, they met the usurper at the place appointed.

A council was immediately held, and Mordecai gave them an account of his determinations; but at the same time had the weakness to tell them what reasons induced him. Inwardly they despised him for the cause, as not proceeding from honour and justice, but extoll'd it for the effect, and made use of all proper arguments to engage him in so glorious and generous a design. Some in the council were of opinion, that this affair was to be conducted with great caution and dexterity; they represented, that the rebellious faction were so cemented in iniquity, that it was not to be expected that any assistance could be procured from them; that by being in possession of power, and aided by an army, they would be able to silence and stop any propositions made in favour of King James; and, that notwithstanding it was apparent that eighteen in twenty throughout the nation were in his interest, yet from their natural indolence and inactivity, and from their groundless fears, they could not be prevail'd on to engage in any bold enterprize; and they were so aw'd by some late instances of severity, that it would be impossible to persuade them to appear publickly, and give testimony of their loyalty, unless there were first large provision made of money, arms, and ammunition, and that a good army

could be procured from the English to countenance and support them, and to which, in any exigence, they might resort.

Tho' these reasons were the result of an honest mind, and were not intended as arguments of dissuasion, but of caution, yet Marcellus quickly perceiv'd the impression they made on the phlegmatick constitution of Mordecai; and lest they should influence others to the old fatal sentiment of waiting yet a fitter opportunity, he spoke to this effect: That, bad as the world was, no man lov'd wickedness for the sake of wickedness, but for the present, however short advantages attending it, and on a sure prospect of destroying those, vertue would be again courted and follow'd; that he had assurances, if the dread of punishment for the notorious injuries done to King James was removed, most of them who were guilty would return to their duty, and do him considerable service; and for the more obstinate and perverse, they would be quickly dispersed and disunited, when there should be the least appearance of danger to them; for all men in an unjust cause had a natural distrust of each other: that by their daily proceedings, it was plain they thought themselves far from a state of security: that they were despised for their follies and imprudence, hated for their vices, and abhorr'd for their cruelties; and that whatever confidence they seem'd to repose in the army, yet in reality they were sensible that an army of Scotsmen were too generous to contribute to the destruction of the laws, the liberties and religion of Scotland, and doubted not but they would seize the first occasion to demonstrate their loyalty to their native lawful king, and hop'd that there still remain'd among them some remembrance of himself: That all men were now convinced how destructive it was to overthrow the ancient establish'd rules of government,

and only sought an opportunity to resettle it on its ancient basis, and heal the breaches made by their passionate and rash proceedings: And that King James entirely possess'd the hearts of the people, who were now all united to his interests, as well from the justice of his cause, as from the tyranny and indiscretions of his enemies. He then expatiated on the virtues and rare qualifications of that excellent prince, and concluded with demonstrating to them, that no humane art or power could heal their divisions, preserve the nation from intestine war, from foreign insults, and from being the scorn and detestation of the whole earth, but unanimously and joyfully to invite back their most gracious and lawful Sovereign King James, as they were obliged to do by their own interest, and by all laws humane and divine.

It is usual with wise men to see dangers at distance, and those lessen on the approach to brave and generous minds. Mordecai, whose chief aim was to be revenged on his fantastick son, foresaw no difficulties in the attempt; but they appear'd insurmountable to him when he beheld them at hand, and ready to be attack'd: So that notwithstanding that the whole assembly approv'd of what Marcellus had offer'd, and were of opinion that there needed no more to accomplish the restoration of King James than to attempt it, yet Mordecai continued irresolute and clouded with doubts and fears. He doubted their being able to succeed, and was fearful they should; for he knew not what treatment he should find, since he could not put on resolution enough to give them assistance: He was afraid to return, because he more than doubted his being able to secure himself in his usurpation. He doubted that his own ministers would have intelligence of his proceedings, and he fear'd their resentment; and above all he dreaded the impetuous temper and indiscreet

conduct of Walter, and could not but admire and reverence King James for the excellent qualities ascribed to him, tho' it was not in his nature to imitate them.

All therefore that could be extorted from him, was an engagement to remain where he was, and leave Walter and the rebellious faction to shift for themselves, while Marcellus and Marcus determined to return to Scotland with their friends and adherents, and make one brave push for the recovery of their liberties, and the restoration of the King.

They were no sooner arriv'd there, but they published declarations in the King's name of rewards to all people who should contribute to the placing him on the throne of his ancestors, and of a free and general pardon to his greatest enemies, provided they thenceforward forbore giving countenance or assistance to the usurper's party. At the same time they issued summons to all the nobility and gentry to meet at a prefix'd time and place, to consult the proper measures to bring back the King, to prevent the effusion of blood, and restore the peace and flourishing estate of the Kingdom.

The reception these declarations found, answer'd the most eager desires, and exceeded the most forward expectations. The concourse of people was so vast at the time and place appointed, that it did not seem King James had one enemy, or the usurper one friend left in the whole nation; and the proposal of recalling King James was received by the assembly with unanimous acclamations of incredible joy. Indeed there was no need of voices to divulge their consent, their eyes, their hands, every muscle in their faces demonstrated their approbation and satisfaction. Each man strove who should appear most forward in so blessed a work, and every man

was now only astonished, that, that was not long before perfected, which every man so ardently desired.

Nor was the Joy less throughout the whole Nation, when the Resolution of the Convention was published. Ambassadors were immediately dispatch'd to England to demand their King, who were readily gratified ; and that most injur'd, but most admirable Prince, was receiv'd by his own Native Kingdom with such universal Content and Transport, as can admit of no Parallel, but that of the Restoration of our Monarch King Charles the Second, of Ever loved Memory.

(“ About the latter end of this zeire, 1423, Prince James, being now a prissoner in England 18 zeires, hauing married the Ladey Jeane, daughter to the Duck of Somerset, Marques Dorset, was fred from the Englishe captiuitey, and with his wyffe returned to Scotland, being accompanied with a grate traine of Englishe Lordes and Ladeyes to Beruick.”

“ The 21 of Maij, 1424, K. James the First, with his Queine, Jeane, wer solemly crouned at Scone.”—*Sir James Balfour's Historical Works*, vol. i. pp. 152, 153, 8vo. *Edin.* 1825.)

THE
ROMAN ACCOUNT
OF
BRITAIN AND IRELAND,

IN ANSWER TO
FATHER INNES, &c.

By ALEXANDER TAITT.

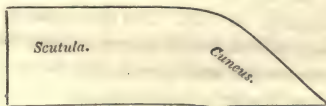
NUMBER I.

Eumenius Constantio Cæsari.

N. 11. *Adhoc natio etiam tunc rudis, et solè Britanni Pictis modo et Hibernis assueta hostibus, adhuc seminudis facilè Romanis armis signisque cesserunt.*

Prosper contra Collatorem.

Cap. 58. *Nec vero segniore cura ab hoc eodem morbo, Britannias liberavit, quando quosdam inimicos gratiæ, solum suæ originis occupantes, ab illo secreto exclusit oceani, et ordinato Scotis Episcopo, dum Romanam Insulam studet servare Catholicam, fecit etiam Barbaram Christianam.*



EDINBURGH:

PRINTED IN THE SWAN CLOSE,
A LITTLE BELOW THE CROSS, NORTH SIDE OF THE STREET.

TO THE READER.

THE design of these sheets is to show, that the Scots broke in upon the Roman Isle or Province, from their Hibernia beyond the Firths, alias Strathern; that they made themselves masters, first of Man, thereafter of Ireland; which subject from a sufficient hand, would more universally recommend itself, than this Essay, whose mean and indigested draught is far from the learned and ingenious composures of others; however, the perusal of it, such as it is, may be agreeable to all Scots Men, upon whose judgment and encouragement its character depends.

[The above is on the back of the title-page of this rare tract, which we here reprint from a copy (small 12mo. pp. 20) in a volume of "Tracts on Scotland," purchased at the sale of the late George Paton's library, and now in the Library of the Writers to the Signet: We are indebted to Mr. David Laing for having pointed it out to us, as it had long been inquired after without success. Of the author we have received no information, except that he wrote another pamphlet, entitled, "An Essay upon Baron Napier's Rhabdology, shewing the use of his Tables without his Rods, printed at Edinburgh in 1746." The three numbers now reprinted are all that were published of his answer to Innes, &c. We regret that a copy was not procured by us in time to be printed immediately following Waddel's "Remarks on Mr. Innes' Critical Essay," but it is not of importance that they should be so arranged.]

THE
ROMAN ACCOUNT
OF
BRITAIN AND IRELAND :

SHEWING
THAT THE HIBERNI IN SOLINUS AND EUMENIUS
WERE BRITAINS.

Eamque partem Britannix, quæ Hiberniam aspicit.—TACIT. AGRIC.

Our authors having unanimously maintained our ancestors ancient possession both of the isles and continent of Britain, and by irrefragable testimonies and arguments confirmed our early settlement in the isle, partly from the Roman, but mostly from the Christian accounts, they considered that of Eumenius among the first of the former. *Eumen. Paneg.*

The credibility of which accounts, being first founded upon the information of captives or hostages, came afterwards to be established upon surer grounds ; so that we may judge of the Panegyrist's account of the first leading people in the isle, that he describes the first state and people of Britain more conformable to the truth of things than any before : The latest accounts being always the surest and most credible. *Caesar, Com. lib. 5. Tacit. Agric.*

Both Mela and Tacitus were of opinion, that, however the Roman authors contribute much by their eloquence, to set off their first notices of Britain, yet a choice should be made, for at first their writers magnified the fame of their invasions, and represented them as conquests. Now, they had both surer and ampler matter for their provincial history than at first, when their settlement was unstable and uncertain, and their accounts various. *Tacit. Agric.*

Mela's account is more general. "Whose people," says he, "the more distant they lay from the continent and noise of war, the more cattle they had; that, ignorant of other riches, they only sought large pastures, and from thence had their own quarrels and causes of war." He refers its great rivers, the names and situation of the unknown people, and their kings, to be searched out in a more peaceable settlement, than what the liberty of the natives would then permit the Romans to have in the isle. *Mela, lib. 3. cap. 8.*

Tacitus judges his own description, in so far as the isle was subdued, more faithful than any of the antients. His account of the whole isle is different from that of theirs; for whereas Livy and others resemble Britain to an oblong scutula, he restricts that figure to the provincial parts, exclusive of Caledonia, which he describes otherwise, and represents it together with the extreme tract of land in a cuneal form. *Tacit. Agric.*

We may judge the same of the Panegyrist's account, now that their conquests were improven to such a vast extent, and their notices of Britain more certain, that he describes the isle into three parts, from the most considerable people therein; he hath none of the many names, which we find elsewhere in Tacitus, and others, no less

signal for their liberty than the Picti, whose auxiliaries he accounts for under the name of Hiberni.

The Panegyrist is comparing the state of Britain, in Cæsar's time, with that in Constantius his time, and from the comparison 'tis observable, that the Hiberni were considerable in the isle, and natives before the Romans ; they have worthy actions ascribed to them by Solinus, who describes them a warlick people, whose women were wont to give their children their first meat off the point of a sword : *Puerpera si quando marem edidit, primos cibos gladio imponit mariti, inque os parvuli, summo mucrone leviter infert.* But warlick cannot be the character of the then Irish, who, from Solinus, are pretended to have had an enemy among them, and to have become the seat of war, when they, according to the Roman accounts, amidst the noise of so near and long war in Britain, never had a descent made upon their isle from thence by the Romans. *Solin. Cap. de Britan.*

Our Panegyrist connects so close the times which he is comparing, that, as they followed immediately one upon another, in both he makes Britain to suffer much in a continued state of war from the same enemies, whom he accounts for under two names of people, by one of which names, Gild and Bede always design the Scots, who were called Hiberni from their western situation, and their country Hibernia, the word being derived from *Hiere*, the west, and as properly signifying the west of Britain, as the west isle of Ireland : Thus John Fordoun's Hibernici and Hibernenses were those of the west of Britain, for he deduces the Roman war with them from the Emperour Claudius's leaving the isle, when first their arms turned westward (founded therein from Roman authority, specially Solinus's account of them) but makes the same memoir of the Scots Fathers, which Solinus

hath left us of the Irish mothers, concerning their giving the first meat to their children off the sword. *Fordoun. Cartusian de Perth, MS. lib. 1. cap. 9, 28.*

They were Britains, not the Irish, who first intermeddled in the affairs of Europe, and derived upon themselves the force of the Roman war; for Cæsar, finding the Gauls assisted from Britain, made a descent rather upon it than Ireland; and his successors seem, with him, to have neglected Ireland, for that being situate betwixt Spain and Britain, and having the opportunity of the Gallick sea, the merchants much frequented its known ports; and its commerce was become of greater use to Spain and Gaul, these mighty parts of the empire, than to be interrupted by a descent, for the Romans had now access to these seas, where they found Ireland and its trade so much connected with these countries, that the invading of it would have proved prejudicial to these parts of the empire; and therefore Agricola might have neglected an invitation into it. *Cæsar. Com. lib. 4. Tacit. Agric.*

And indeed, as Britain and Ireland lay off the Continent, the one off Spain, the other off Gaul, the merchants had better access to the Irish ports, and settled there more for commerce than in Britain, which, from its greater vicinity to warlick people, sooner become and continued the seat of war, the noise of it from Gaul, more affecting those of Britain, than it did Ireland from Spain. *Tacit. Agric.*

A legion and some few auxiliaries were thought sufficient against the Irish, who had not the same sense of liberty as the Britains, and were far from their causes of war, being never dispossessed; here the whole Roman force in Britain was requisite to keep the enemy from their original country, from which they were cut off by the line

of the shortest wall, and the Roman fleet was now in these æstuaries, which the Britains esteemed the secret of their sea, where they were wont, even fasting, to reach their known ports any time of the year, whereas the Irish sea, being navigable to the wicker-boats only some few days in the summer, the arrival of auxiliaries from Ireland, could be of no use in the winter services of the Britains, nor was their escape into Ireland so patent, now that the Roman fleet was wont to sail around Britain. *Solin. Cap. de Britan. Tacit. Agric.*

Agricola, having passed the Clyde, was far from Ireland, against which he had no forces to spare, having to do with an enemy, whom Galgacus animated from their being out of the view of the enslaved coasts, which cannot be said of Ireland, which lay distant twenty Roman miles from Silura, which, as Tacitus first gave it the name of an isle, *summotis velut in aliam insulam hostibus*; so it retained the same for some time, for Solinus terms it an isle from the Silures, who, as their courage proved unshaken in the first battles, and their prowess equal in all, were far from suffering their name to be extinguished with the first of the provincials. It cost the Romans much blood, that they carried off Caractacus the Siluran to Rome, and Frontinus had much ado to repair their glory by his defeat of these same Silures; they only, after signal disasters, seem to have been removed by Agricola into that other isle, sometime known to Solinus by the name of Silura, where they were far from these places the Romans found them in at first, who give them two different seats in Britain: They long preserved their name in that insular seat, which Solinus accounts for, that they were possessed of in his time, which Father Innes mistakes, when he would restore them to their conti-

nent of Britain, against whom Agricola placed barrier forces along the line of the shortest wall, *eamque partem Britanniae quæ Hiberniam aspicit, copiis instruxit. Tacit. Agric.*

Others of them were forced into more proper isles, namely, such as settled in the Æbudæ, with a king over them; for it is only as Agricola and his successors made good their conquest upon the firths, the confines of this Hibernia or Iberneich, that we have the first account of kings there, a small kingdom of five isles, for most of them were as yet neglected, the greater isle always being first peopled; thus, Ireland and the other lesser isles, owe their inhabitants to Britain, the greater isle. *Solin. Cap. de Britan.*

§. 2. THAT STRABO'S BRITISH IERN AND CLAUDIAN'S SCOTS IERN ARE THE SAME, THAT BY NONE OF THEM CAN BE MEANT IRELAND.

Nor was Ireland *inhospita*, inhospitable, unfit for habitation: Strabo indeed accounts for the outmost navigation to have been into the Iern, where one may find it otherwise habitable, not so hospitable as in Britain, which Claudian insinuates from terming it *Glacialis Ierne*, The icy Iern: Ireland was no less signal for its temperate air, than its soil was celebrated for pasture, which temperature the Romans found to differ little from that of Britain; but turning to the north of the isle, they found that, as the temperature of the air proportionally decreases in places from south to north, the natives were of a much harder habit of body, observably inured to their own colds, and easily comporting with their northern

storms, so far had the position of the heavens affected them in their different situations; and Ireland lying parallel with the south of the isle, and not reaching beyond our firths, its air and temperature behoved to be different from that of the north. *Tacit. Agric. Str. lib. 2. p. 72. B.*

Strabo's length of Britain is 5000 stadia or 625 miles, (which is much deficient of the more than 800 miles, which Solinus gives the whole isle at the Caledonian angle) from the midst of which, he makes the Iern, to ly distant 4000 stadia or 500 miles, which cannot be said of the whole isle, but of the Roman Britain or province, to the north of which, from these dimensions, it lay distant 1500 stadia, or 187 miles and a half. *Str. lib. 2. p. 72. B; p. 63. D.*

Strabo makes the breadth of the habitable world to have reached from the Æthiopick Circle to the Iern northwards, draws the northern line, which separates the habitable parts from the less habitable through the Iern; for he judges the northern limit of the habitable earth should be placed more southerly, than it is by Pytheas: He likewise finds fault with Hipparchus, who allows 700 stadia to a degree, that he places some Britains more to the south than really they were by 2 degrees 8 minutes or 1500 stadia, each of 125 paces; that he makes the longest day to be 19 hours in the south of Britain, where it was scarce 17 hours, which holds not universally in the vast length of the isle beyond Ireland, though some make the longest day in Britain to reach 19 hours; for Mr. John Mair from the greater variation of the hours towards the poles, than near the equator, assigns 19 hours to the northern parts, as Mr. Robert Balfour on Cleomedes, makes the shortest day in Cathness to be five hours; and judges that Æneas Sylvius, Pope Pius II.

was in the remote isles of Schetland, from his writing that the shortest day reached not above 3 hours. *Str. lib. 1. p. 64. A. lib. 2. p. 114. D. p. 115. A. Jo. Major, lib. 1. cap. 3. Cleom. p. 37. 196.*

Cleomedes accounts for the longest day in Britain, that it is 18 hours, when the sun is in Cancer, that in the shortest nights, one may read with the light that arises from the sun's nearness to the horizon, as he is but a little under the earth: Mr. Balfour, upon the passage, remarks that in Anguse his native soil, where the pole's elevation is almost 59 degrees, the longest day is 18 hours; that the tropic of Cancer in such elevation cannot be more degrees than 7 and an half under the horizon, from which depression of the tropic, the nights are so far from being dark, that there is no twi-light, but rather continual day during the solstitial month: Yea Bishop Leslie avers, that in Cathness and Ross for two months near the Solstice, one may read in the night-time, so clear is it from the sun's rays passing to the orient near the horizon. *Lesl. Scot. Descr. p. 4.*

Cæsar had not such access into the north of the isle as Constantius, who upon the ocean saw almost continual day, he found the nights shorter in Britain than in the Continent, and had found them much shorter in the isles than in Britain, if he had reached with Agricola and Theodose the full extent of the province; then his enquiries had been satisfied, as to the remotest of them being in winter, *sub bruma*, thirty days destitute of the light, which in summer they enjoyed as perpetual, during that space of time, from the horizon's intercepting one sign of the zodiack. *Cæs. Com. lib. 5.*

As Cæsar found the nights shorter in Britain than in the Continent, so Pliny accounts for them, that they were clear, which Tacitus confirms. "The length of the days,"

says he, “ exceed those with us ; the night is clear, and in the extreme parts of Britain short : that the difference betwixt the ceasing of the light, and its appearing again, is scarce discerned ; and were it not the clouds, the sun’s light would be seen passing by, neither setting nor rising : this they affirm that the low shadow of the earth, is so far from raising, from its extreme plain, the darkness of the night, to the sidereal heavens, that it rather falls short of them.” *Plin. lib. 2. cap. 75. Tacit. Agric.*

Eumenius addresses the Emperor Constantine with much the same account of the length of the day, and clearness of the night, when he says, “ That not only the sun is seen passing by, but the stars likewise, near the bounds of the night.” *Noctisque metam, cæli et siderum transit aspectus.* Paneg. No. 9.

The length of the day, and the shortness of the night, with some, differing from what they are with others, arises from a place being more or less situate to the north, as does the different temperature of the air ; and if in Spain, upon the sea-coast at Gades, the longest day was fourteen hours long, and in this Iern, according to Fordon, more than eighteen hours, how much distant to the north must it to have been, and less habitable than these places where the longest solstitial day reached only seventeen hours ; so that Strabo justly enough places it always to the north of Britain, and calls it British, from its being part of the isle ; yea the author of the abstract out of him, calls it the British isle, from the Britains that inhabited it, explaining that passage, “ Those that have seen the British Iern.” *Str. lib. 1. p. 63. Abst. lib. 2. p. 20. lib. 3. p. 39.*

Now 5000 stadia, Strabo’s length of Britain, or 7 degrees 8 minutes is far from the 9 degrees, which it hath in some maps from the 51 degree of latitude to the

59. From which, and his placing the Iern in the line towards the Frozen Sea, his Britain appears to have been the Roman, from the midst of which, the Iern, as it lay distant 4000 stadia, that is 5 degrees 42 minutes, must have been a part of Great Britain, which, according to Tacitus, had no land to the north of it, *nullis contra terris*, but the vast and open sea; and Galgacus owns himself (*nos terrarum extremos*), to be in the extremities of the earth, because there was no people to be found beyond them. *Nulla jam ultra gens.* Tacit. Agric.

Strabo's Britain, as it lay in the midst of many isles, was more threatened from the Iern than from Ireland, which, upon the west, was cut off from it by the sea; it was mostly infested from the north, where the Iern was separate from it by a Frith, which now became the limit of the empire in Britain. For whereas the glory of the Roman name carried their arms further, it was mostly among the Caledonians, where they were long detained in the neighbourhood of their wood. It was only under Theodose, that the Roman war took its rout into the Iern, against the Scots: And it was at the Friths, that these two people lay more coherent to the bounds of the provincial isle, *terminis ejusdem insulæ cohærentes*, than the people of Ireland, whose nearest distance from Britain, was about twenty Roman miles. *Eum. Paneg.* N. 20.

The temple of Terminus, if there was any in the isle, was more likely to have been found in the north, where is Julius's Hoff, and these initial letters, I. A. M. P. M. P. T. Which with respect to it, I would read thus, *Julius Agricola munivit provinciam, maximo posito termino*: For the Romans being masters of the nearest frith, and having almost insulate, penn'd up the enemy, as it were in another isle, would have set bounds to Britain at the friths, if it

have been consistent with the prowess of their army, and the glory of their name, *si virtus exercituum, et Romani nominis gloria pateretur, inventus in ipsa Britannia terminus, nam Glotta et Bodotria diversi maris æstu per immensum revecti, angusto terrarum spatio dirimuntur, quod tum præsiidiis firmabatur.* And Agricola, calls the north the end of Britain, *finem Britannicæ*, when he animated his army from their subduing Britain, beyond the bounds of former conquests. *Ergo egressi, ego veterum legatorum, vos priorum exercituum terminos, finem Britannicæ, non fama nec rumore, sed castris et armis tenemus.* And Galgacus, when he had to do with the Romans at the Grampin, owns, that the lands-end of Britain was patent. *Nunc terminus Britannicæ patet.*

So much concerning Strabo's British Iern, which compared with Claudian's Britain and Iern, will be found to be much the same. Claudian gives a direful account of Britain, which he introduces, bemoaning its pitiful state as provinciate, miserably suffering by its neighbour people, that lay far beyond Ireland in the extreme parts of the isle, for he gives such an hyperborean situation to his Iern, which, according to Strabo, is the northmost, that considering its position, nothing could be expected from its rigorous cold, but ice, hoar-frost, and snow; *Str. lib. 1. p. 62. B.*

V. 55. Fregit hyperboreas remis audacibus undas.

V. 31. Quid rigor æternus cæli, quid frigora prosunt?

Ignotumque fretum?

Claud. 3. Consul. Honor. Claud. 4. Consul. Honor. and comparing Theodose's southern trophy with his northern, which neither the Libyan heats, nor the Caledonian colds, could hinder to be fixed near the different Poles, he celebrates his passing the unknown firth, as a bold adventure.

V. 57. Et geniuus fulgens utroque sub axe tropæis.

V. 26. Ille Caledoniis posuit qui castra pruinis,
Qui medios Libyæ sub casside pertulit æstus.

Claud. 3. Consul. Honor. Claud. 4. Consul. Honor.

§ 3. OF FATHER INNES'S GLOSS UPON CLAUDIAN'S IERN,
AND HIS JUDGMENT ON SOME ROMAN AUTHORS.

Father Innes, in some things, agrees with our antiquaries, in others, differs from them, especially as he would bring the pastoral people of Ireland from their flocks, and associate them with the warlick Picts, thus depriving the native Irishery of Britain, *Hibernos soli Britanni*, of the glory of their large possessions therein, whose main study according to Solinus, was to engage frequently in war and infest one another, *maximè imperitandi cupidine, studioque ea prolatandi, quæ possident*, thus they had a desire of enlarging their possessions in the isle, which their leaders, no less than these of the Picts, improved for establishing their authority early among them, and forming them into a kingdom.

He is of opinion, that, by *undæ hyperboreæ*, may be rather meant the northern friths than the ocean, that there were two people beyond the friths, namely auxiliaries from Ireland, and the native Scots, whose state, says he, seems more likely to have been subverted by Theodose than Maximus; these last he shews from Gild and Bede, to have been called Transmarine not in regard of the Irish sea, but of the Frith, but understands not how the passage from Ireland into the province, can be called a valley by Gild, *Scythica vallis*.

How came it to be published *de Scythica valle*? a suffi-

cient critick has not adverted, that the contraction *vall* is changeable into *valle* by affixing to it *e* instead of *o*. Where is the ingine of our critick? Could he not have judged *de vallo* to be the genuin reading? Supposing it to be *de valle*, had that valley no marish? Does not the Panegyrist say, the Scots were forced to their fenns, *Scotum ad paludes suas redactum*, and thus it was equally easy for them to have entered the province, by their marishy plain as by their friths; is not the word *emergentes* as properly used by Gild, of their passing over the wall, considering this, together with its height, as *munitio aquarum* was by Bede of the friths, *quatenus ubi, munitio aquarum deerat, præsidium valli adesset*. What? are our antiquities the less credible, that the principal of the Roman authors, are set aside by his supposed hearsay and conjecture? Are they not derived much higher, than he would have them, even from the fragments we have of them by the Romans? Might not the expression *adhuc seminudi*, brought to his remembrance our Scots Highlanders, who as yet subsist in Britain and its isles, with their own mother Irish tongue and nakedness, as the proverb insinuates, “its ill, (i. e. hard) taking a breech off a Highland-man.” *Pacat. Theod. No. 5.*

He seems to make a choice of the Roman authors, but with what judgment, when he censures the principal of them, as founding their accounts upon hearsay and conjecture? What thinks he of Cæsar’s *ipsi memoriâ proditum dicunt*, and *ut fert illorum opinio*. Is not this the natives account of their own antiquities, which he gives, when he says, that some of them were native insulars, *nati in insula*, deriving their right of possession from their ancestors, and maintaining the same against foreign settlements, so far was the inland part of the isle from being patent to the Gauls, that however Divitiacus the Suession had

formed their settlements in Britain, into a kingdom so as to become auxiliary to their original country, the natives kept them confined to the maritime parts.

What thinks he of Divitiacus the Æduan being a Druid? Were not the Gauls wont to go into Britain, to learn that antient discipline? What Roman authors he may pretend Bede not to have had access to see, certainly he himself may be alledged not to have seen some of them. Does not Mela account for the Gallick Druids, that the most noble of the nation were long in their school, that they taught them many things, and in hid places? *Docent multa nobilissimos gentis, clam et diu in specu, aut in abditis saltibus.* Lib. 3. cap. 2. Were not the isles about Britain, as they lay hid and remote from the continent, preferable to any Specus or Saltus in Gaul? Thus we find in Paulinus his time, their seat to have been at Mona.

If Father Innes had seen Cicero, he had known that Divitiacus, so much in favour with Cæsar, and his familiar friend, was one of the Gallick Druids. *Siquidem et in Gallia Druides sunt, è quibus Divitiacum Æduum cognovi.* And would have been of opinion that Cæsar, who scarce resided two summers in the south of the isle, certainly owed his account of Britain and its inhabitants to this Æduan, who as a disciple of the Druids, had easy access even into the recesses of Britain and its isles. *Cicer. lib. 1. de Divin.*

If he had seen the foresaid abstract out of Strabo, he would with its author, have made him to have flourished later than he does, namely under Nero, when the Roman conquests were much larger than under Augustus, when they had no access to the isle, far less made it familiar to them, they might have had hostages sent them from Britain. It was only under Nero, that they brought to Rome

a captive king and princes; who in his speech, accounts for his nobility, that it was illustrious for ancestors, that he had a large sovereignty, which Tacitus seems to confirm from the foreign wars he was engaged in, *quæque externis bellis quæsierat*, of which more hereafter. *Tacit. Lib. 12. Annal.*

Tacitus considers the people of Britain in general as barbarous, their descent from what places they came uncertain; he draws arguments from their situations, and concludes the Silures, whose seats were towards Spain, were from thence an settlement of the ancient Iberi; he judges the Caledonians were of German extract, from their large limbs and red hair, for he argues from the various habits of their bodies, which he considers in their native soil, from whence they came, and in their new seats; and how far the position of the heavens, might have changed them in these different soils, from what they were at their first settlements; and therefore, is of opinion that the Caledonians and Silures, were of different descents from their different kinds of hair, were it not, that the difference is owing to the change of the soil, and air: This, I conceive, to be the meaning of his words, *seu durante originis vi, seu procurrentibus in diversa terris, positio cæli corporibus habitum dedit.* *Tacit. Agric.*

All this he treats, not as a matter of bare conjecture, but as worthy of memory: For after a judicious examination of these things, he introduces himself to their true extract, when he brings all of them from Gaul, partly that there was small difference in the languages, partly that the same superstitions were found with them, and their neighbour Gauls, and runs the paralel betwixt them in their equal boldness in engaging in dangers, and fear in declining them; he gives the preference to the British fierceness in so far, as some of them were not softened

through a long peace, and were yet animated to exert their valour from the liberty they enjoyed; while others of them, being overcome, had no spirit either for war or liberty, as it had happened to the Gauls. *Tacit. Agric.*

Were not Cæsar and Tacitus accurate enough in their situation of Britain, and its people? Cæsar accounts for Britain and Ireland together, but Tacitus connects his account of Hibernia, with that of the friths; it behoved therefore to be another Hibernia than Ireland, for when he speaks of Ireland, he speaks of it as an isle, *Jam ventum haud procul mari, quod Hiberniam insulam aspectat.* Lib. 12. Annal. Whereas here we have *Hiberniam* alone in two clauses, and the passage may be read complete enough without any such addition, *eamque partem Britannicæ quæ Hiberniam aspicit, copiis instruxit. Agricola expulsum seditione domesticâ unum ex Regulis gentis exceperat, ac specie amiciticæ in occasionem retinebat. Sæpe ex eo audiui, legione unâ et modicis auxiliis debellari obtinerique Hiberniam posse.* Tacit. Agric.

In spem magis quam ob formidinem, &c. seems to have been from another hand than that of Tacitus, a supplement from the margin, inconsistent with the change of affairs, that then obtained in the Highlands, through the contrary prevailing factions of kings and princes, *olim regibus parebant, nunc per principes, factionibus et studiis trahuntur*, who, with their partisans, were the more welcome to Agricola and the Romans, that they wanted such instruments to enslave their country, and to carry the war into the otherwise inaccessible places. Would not this Irish note, have connected better with Tacitus his general account of Britain, where, with Cæsar, he compares its situation with the adjacent parts of Europe, and its people with their neighbours of Gaul and Spain? *Tacit. Agric.*

Father Innes would have Severus to have gained all his

glory in repairing Adrian's wall: Certainly he knows not that from sea to sea denotes always the friths, where Eutropius and Victor, both of them give thirty-two miles to the short wall which Severus repaired, when he had access to the friths, where Xyphiline accounts for the breadth of the isle, that it was thirty-seven miles and an half: And was it not great glory to have reached the friths, and to have access, with Agricola, to the Caledonians, if they had not signally expelled him? And his medal thereupon may be thus inscribed, *Valla quid ultra*, for Adrian's wall was not beyond Ireland, *Littora Juvernæ*, as was the wall at the friths, which none but transcribers can extend equal to the long wall, as is clear from Eusebius, Cassiodorus, and others, their wrong dimensions.

As there were two walls in Britain, so their lengths are differently accounted for by authors, through the unequal breadth of the isle, in the places where they were built, the one of eighty miles, was terminate at the ocean, *utrinque ad finem oceani*, the other of thirty-two miles, from sea to sea, *a mari ad mare*. Eutropius and Victor seem both of them to have considered the short wall as they did the other, all along, free of its bendings. Are their dimensions the less accurate, or to be suspected, that they were not taken from the stones, but, as a straight line, from sea to sea, as Tacitus term our friths, whose then greater distance is to be considered from the great recess both of sea and tide from the land since that time? Neither is Bede's authority to be neglected, as to the beginning of the wall, when the number of paces found upon nine of its stones so nearly falls short, as there is wanting only two miles 668 paces of 32 miles.

But, to return to Eumenius and Claudian. The Panegyrist's *Soli Britanni*, if it refers not to *Pictis* and *Hibernis*,

as denoting their native soil, it may respect them as enemies of Britain, or it may connect with *natio*, thus, *Natio etiam tunc soli Britanni*, the then British nation, for our author speaks of them as of Romans, with respect to Constantius his time, N. 19 *Britanni tandem liberi, tandemque Romani*. The Scots are said by Claudian to have raised the whole posse of the Ierne, the poet does not amiss in calling their country the icy Ierne, from its frozen marishes, where such heaps of the Scots fell, when Theodose, amidst the Caledonian hoar-frosts, was in pursuit of them beyond the Friths, that the Ierne is introduced a mournful crony, deploring the overthrow of her Othiern and Thierns or king and chiefs of her clans, and Ireland, as it then was infested by the Germans and others from Spain, could not spare any of its posse to be auxiliary in the British wars. *Eutrop. lib. 9.*

Father Innes is of opinion, that the Caledonians were only a part of the Picts, seeing the *Vecturiones* likewise bore the Pictish name, which he will have to have been common to all the unconquered Britains in the north; thus the Panegyrist's Hiberni, his half naked Britains, may be comprehended, whose nakedness Solinus describes, together with their painting, in these words, *Regionem partim tenent Barbari, quibus per artifices plagarum figuras, jam inde a pueris variae animalium effigies incorporantur, inscriptisque visceribus, hominis incremento, pigmenti notæ crescunt: neque quicquam magis patientiæ loco, nationes feræ ducunt quam ut per memores cicatrices, plurimum fuci artus libant*; the sense of which I suppose to be this, There were barbarians who possessed part of the country, they from their childhood had incisions done upon their bodies, the draughts artificially figured a variety of animals, the paint so incorporate within, that the inscribed effigies became larger together with the person.

Nor is there any thing, wherein these savage people shew more their patience, than by memorable gashes, to make their bodies, even their viscera susceptible of much pain.

That he founds the Scots name in their use of the bow, and would have their arms the same with these of the Scythians, shews, that he is also given into the common mistake of these antiquaries he is pleased to follow; he has nothing now of his own to support their notion of deriving the Scots name from their being archers, for there is the least, if any mention of the Scots bow in the Roman writers, they only came in use of the bow and arrow, having to do with new enemies, the Saxons and Angles: And their name, which they have in the Roman history, cannot be owing to any skill in this kind of shooting which was enjoined them in later time, and we find them no ways inferior to their new neighbours in the use of such arms, though new and unknown. And that of Claudian. 3 *Cons. Honor.*

54 *Scotumque vago mucrone secutus,*


insinuates that the Scots were inferior in this kind of sword fight, as the Caledonians had been at the Grampin before, they were not in use by hand thrusts to ward off the point of the shorter Spanish swords, they were wont only, with the Gauls, whose swords were longer and broad, to fetch arm strokes, whereby great havock was made, *cæsim magis quam punctim*, Liv. lib. 22. cap. 46. And thus, from their being more dexterous at the swords, such as those of Gaul used, they seem to be a settlement from Gaul, rather than from Spain.

I must supersede the publishing my account of the Roman Thule, and their sailing around the isle, together with the customs that obtained among the Britains of

old, and are yet in use in the isles, and elsewhere in Scotland, till my countrymen be better disposed toward the research of their ancient liberty, and less curious of the interpolations some of its antiquities receive from the English scene and pen. This is all, my worthy Scotiæphili, from

YOUR COMPATRIOT.

7 *January*, 1742.



A
RELATION

OF THE

DEATH OF DAVID RIZZI,

CHIEF FAVORITE TO

MARY STUART QUEEN OF SCOTLAND,

WHO WAS KILLED IN THE APARTMENT OF THE SAID
QUEEN ON THE 9TH OF MARCH 1565.

WRITTEN BY THE LORD RUTHEN,

ONE OF THE PRINCIPAL PERSONS CONCERNED IN THAT ACTION.

[WE reprint this Relation from the original edition, in octavo, London, 1699, of which a copy appeared in Ogle, Duncan, & Co.'s Catalogue of Scottish Books, (*Lond.* 1822) No. 538, *priced at 2l. 12s. 6d.* There are prefixed to this edition nine pages of extracts from Buchanan's History concerning David Rizzi; these, it was not thought necessary to insert here. Another edition of the Relation was published by R. Triphook, London, 1815, in 4to. as an Appendix to "Some Particulars of the Life of David Riccio," &c., which form No. VI. of (what Mr. Triphook calls) "Miscellanea Antiqua Anglicana;" in the advertisement to this, we read, that "the curious and uncommon relation of Lord Ruthen, the publisher received unsolicited, from the kindness of a gentleman, to him an entire stranger; and as it forms no part of any of the collections respecting Mary, it was deemed worthy of a place in this miscellany. It

is much to be regretted that the orthography of the time in which it was undoubtedly written, has not been preserved by the transcriber." By this it is evident Mr. Triphook was not aware of the edition we use, as it is said in the title-page to have been printed from an original manuscript, and varies considerably from the edition given by Mr. Triphook; it is supposed he must have printed from a manuscript, yet if he did so, and was not aware of the relation being already in print, it was needless to inform us that it formed "no part of the collections respecting Mary;" for it could not do so if never before printed, as his advertisement leads us to believe. We join with Mr. Triphook in regretting that the original orthography has not been retained.

We shall here give the first period of the Relation as it appears in Triphook's edition, in order to shew the dissimilarity we have alluded to, viz. "The author of this relation, *Lord Ruthen*, at the age of forty-six, was visited by the hand of God with great trouble and sickness, whereby he kept his bed continually by the space of three months, and was under the cure of physicians, as of the queen's French doctor, Dr. *Preston*, and *Thomas Thompson*, apothecary; and was so feebled and weakened through the sickness and medicines, that scarcely he might walk twice the length of his chamber unsitting down."]

IN the first, the Lord Ruthen of Scotland, a man of forty and six years, was visited by the hand of God with great trouble and sickness, having two infirmities, the one called the inflammation of the liver, and the other the consumption of the reins and kidneys, wherethrough he kept his bed continually by the space of three months, and was under the cure of physicians, as of the Queen's French Doctor, Dr. Preston, and Thomas Thompson, Apothecary; and was so feebled and weakened through the sickness and medicines, that scarcely he might walk

twice the length of his chamber unsitting down. In this meantime the king, husband to the queen's majesty of Scotland, conceived hatred against an Italian called David Riccio; and about the 10th day of February the said king sent his dear friend and kinsman George Douglass, son to Archibald sometime Earl of Angus, and declared to the said Lord Ruthen how that the said David Riccio had abused him in many sorts, and lately had staid the queen's majesty from giving him the crown matrimonial of Scotland, which her majesty had promised to him divers times before: besides many other wrongs that the said David had done to him, which he could not bear with longer, and behoved to be revenged thereof. And because the said Lord Ruthen was one of the nobility that he confided and trusted most unto, in respect that his children and he were sisters children; therefore he desired his counsel and advice what way was best to be revenged on the said David. The said Lord Ruthen hearing the message aforesaid, gave answer to George Douglass, that he could give no counsel in that matter, in respect he knew the king's youth and facility; for he had sundry of the nobility that had given him counsel for his own honour and weal, and immediately he revealed the same again to the queen's majesty, who reproved them with great anger and contumelious words: so the said Lord Ruthen would have no meddling with his proceedings until the time he could keep his own counsel. The said George departed with the said lord's answer to the king about the 12th of February. The said king hearing the answer, was very miscontented, and said, It is a sore case that I can get none of the nobility that will assist me against yonder false villain Davie. The said George answered, The said fault was in your self, that cannot keep your own counsel. Then the king took a book and

swore thereon, that what counsel soever the Lord Ruthen should give him, he would not reveal, neither to the queen's majesty, nor to any others; and immediately directed the said George to the said Lord Ruthen again, declaring what oath the king had made. Notwithstanding the said Lord Ruthen was eight days thereafter e're he would give any counsel therein; howbeit the said king sent the said George to him every day three or four times. After eight days were past, the which was toward the 20th day of February, the said Lord Ruthen perceiving that the king's whole intent was but only the slaughter of Davie, the said Lord resolved in his mind, and considered that he had a good time to labour for certain of the nobility his brethren that were banished in the realm of England and in Argile; and specially the Earls of Argile, Murray, Glencarn, and Rothes; the Lord Boyd and Ocheltrie, and Lairds of Pittarro and Grange, with many other gentlemen and barons. Wherefore so soon as the said George was directed again from the king to him, the said Lord Ruthen answered, That he could not meddle with the king's affairs, without that he would bring home the noblemen before rehearsed, who were banished only for the word of God. And after long reasoning, and divers days travelling, the king was contented that they should come home into the realm of Scotland; so that the said Lord Ruthen would make him sure that they would be his, and set forward all his affairs. The said lord gave answer to the king, and bad him make his own security, and that he should cause it to be subscribed by the aforesaid earls, lords, and barons. Immediately thereafter the king directed the said George Douglass to the said Lord Ruthen with certain articles, which he desired the said lord to put in form of writing, to be subscribed by the lords banished; the which the said lord

caused to be put in form. And having consideration that the said king desir'd them to be bound to him, the said lord caused to be drawn certain articles in the said lords names for the king's part towards them; which the king himself reformed with his own hand in the margent, like as it is to be produced.

The articles being penned for both parties, and the king reading and considering the same, he was contented therewith, and subscribed his part, and delivered it to the said Lord Ruthen, who sent the other articles to the Earl of Murray, and the remanent being within England; and to the Earl of Argile, and the remanent being with him in the west, who subscribed the same, and sent them to the said Lord Ruthen to be kept till their meeting with the king, and every one to have their own part: The tenour whereof followeth.

CERTAIN ARTICLES TO BE FULFILLED BY JAMES EARL OF MURRAY, ARCHIBALD EARL OF ARGILE, ALEXANDER EARL OF GLENCARNE, ANDREW EARL OF ROTHES, ROBERT LORD BOYD, ANDREW LORD OCHELTRIE, AND THEIR COMPLICES, TO THE NOBLE AND MIGHTY PRINCE HENRY KING OF SCOTLAND, HUSBAND TO OUR SOVEREIGN LADY: WHICH ARTICLES THE SAID PERSONS OFFER WITH MOST HUMILITY, LOWLINESS, AND SERVICE TO THE SAID NOBLE PRINCE, FOR WHOM TO GOD THEY PRAY, &c.

Imprimis, The said earls, lords, and their complices, shall become, and by the tenour hereof become true subjects, men and servants, to the noble and mighty Prince Henry, by the grace of God, King of Scotland, and husband to our Sovereign Lady: That they and all

others that will do for them, shall take a leyal and true part with the said noble prince in all his actions, causes, and quarrels, against whomsoever, to the uttermost of their powers; and shall be friends to his friends, and enemies to his enemies, and neither spare their lives, land, goods nor possessions.

2. *Item*, The said earls, lords, and their complices, shall at the first parliament, and other parliaments that shall happen to be after their returning within this realm, by themselves and others that have voice in parliament, consent, and by these presents do consent now as then, and then as now, to grant and give the crown matrimonial to the said noble prince for all the days of his life. And if any person or persons withstand or gainsay the same, the said earls, lords, and their complices, shall take such part as the said noble prince taketh, in whatsoever sort, for the obtaining of the said crown, against all, and whatsoever that let or deny, as shall best please the said noble prince.

3. *Item*, The said earls, lords, and their complices, shall fortify and maintain the said noble prince in his just title to the crown of Scotland, failing of succession of our sovereign lady, and shall justify and set forward the same at their utmost powers. And if any manner of person will usurp or gainsay the just title, then the said earls, lords, and their complices, shall maintain, defend, and set forwards the same, as best shall please the said noble prince, without fear of life or death; and shall seek and pursue them the usurpers, as shall please the said noble prince to command, to extirp them out of the realm of Scotland, or take or slay them.

4. *Item*. As to the religion which was established by the queen's majesty our sovereign, shortly after her arrival in this realm, whereupon acts and proclamation

was made, and now again granted by the said noble prince to the said earls, lords, and their complices ; they, and every of them, shall maintain and fortify the same at their uttermost powers, by the help, supply, and maintenance of the said noble prince. And if any person or persons will gainsay the same, or any part thereof, or begin to make tumult or uproar for the same, the said earls, lords, and their complices, to take a full, true, and plain part with the said noble prince, against the said contemners and usurpers, at their uttermost.

5. *Item,* As they are become true subjects, men, and servants, to the said noble prince, so shall they be leyal and true to his majesty, as becometh true subjects to their natural prince ; and as true and faithful servants serve their good master with their bodies, lands, goods, and possessions ; and shall neither spare life nor death in setting forward all things that may be to the advancement and honour of the said noble prince.

6. *Item,* The said earls, lords, and their complices, shall labour at the Queen of England's hands for the relief of the said noble prince his mother and brother, by themselves and such others as they may procure, to the uttermost of their power, that they may be reliev'd out of ward, or remain in England freely, or repair into Scotland, as they shall think most expedient, without stop or impediment to herself, her son, their servants and moveables.

7. *Item,* The said earls, lords, and their complices, shall, by themselves and others that will do for them, labour and procure, at the Queen of England's hands, that the said noble prince may have her kindness, goodwill, and assistance, in all his majesty's honourable and just causes, against whatsoever foreign prince.

CERTAIN ARTICLES TO BE FULFILLED BY THE NOBLE AND MIGHTY PRINCE HENRY, KING OF SCOTLAND, HUSBAND TO OUR SOVEREIGN LADY, OF HIS MAJESTY'S MERE CLEMENCY AND GOOD-WILL, TO JAMES EARL OF MURRAY, ARCHIBALD EARL OF ARGILE, ALEXANDER EARL OF GLENCARNE, ANDREW EARL OF ROTHES, ROBERT LORD BOYD, ANDREW LORD STUART OF OCHELTRIE, REMAINING IN ENGLAND, &c.

Item, first, The said noble prince shall do his goodwill to obtain them one remission, if they require the same, for all faults and crimes by-past, of whatsoever quality or condition they be. And if that cannot be obtained at the first time, shall persevere in suing of the same until it be obtained; and at the last shall give them a free remission of all crimes so soon as we are placed, by their help and supply, to the crown matrimonial: And in the mean time shall stop and make impediments, so much as lieth in us, that they be not called nor accused for whatsoever crime: And presently remits and forgives the aforesaid earls, lords, and their complices, all crimes committed against us, of whatsoever quality or condition they be; and do bury and put the same in oblivion, as they had never been: And shall receive them at their returning thankfully, and with heartiness, as others our true and faithful subjects and servants.

2. *Item*, We shall not suffer, by our good wills, the foresaid lords and their complices, to be called or accused in parliament, nor suffer any forfeitures to be laid against them, but shall stop the same at our uttermost power: and if any person or persons pretend otherwise, we shall neither consent to the holding the parliament, nor yet

shall grant to their forfeiture willingly, but shall stop the same to our uttermost power, as said is.

3. *Item*, That the said earls, lords, and their complices, returning within the realm of Scotland, we shall suffer or permit them to use and enjoy all their lands, tackes, steedings and benefices, that they or any of them had before their passage into England. And if any manner of persons do make them impediments in the peaceable enjoying of the said lands, steedings, tackes, benefices, and possessions, it being made known to us, we shall fortify and maintain them to the uttermost of our powers, to the obtaining of the same.

4. *Item*, As to the said earls, lords, and their complices religion, we are contented and consent that they use the same, conform to the queen's majesty's act and proclamation made thereupon, shortly after her Highness's return out of France. And if any person or persons pretend to make them impediment thereunto, or to trouble them for using the same religion, we shall take part with the aforesaid earls, lords, and their complices, at our uttermost power. And after their returning, upon their good bearing and service to be done to the said noble prince, shall by their advice consent to the stablishing the religion now professed, and shall concur with them, if any persons do withstand them.

5. *Item*, We shall fortify and maintain the said earls, lords, and their complices, as a natural prince should do to his true and obedient subjects ; and as one good master should fortify and maintain his true and natural servants against whatsoever, in all their just causes, actions, and quarrels.

All this while the king kept secret from the queen's majesty the whole proceedings ; and as her majesty sought

by subtil means to learn of him what was in his mind, so crafted he with her to seek out her mind : And in the same time he daily sent to the Lord Ruthen, saying that he could not abide Davie any longer ; and if his slaughter was not hastened, he would slay him himself, yea, though it were in the queen's majesty's own chamber. The said Lord Ruthen counselled him to the contrary, and thought it not decent that he should put hand on such a mean person ; yet always the king could not be content, without the said Lord Ruthen affixed a day when the said Davie should be slain. The said lord considering with himself that it was not convenient nor honourable to slay the said Davie, notwithstanding the offences he had made ; but rather to take him, and give him judgment by the nobility, the king's majesty answered, it was cumbersome to tarry in such a cause : but always he could be contented that he were taken and hanged, or dispatched otherwise. In the mean time the king and queen's majesties rode to Seaton ; the king so burning in his desire towards the slaughter of David, he sent divers privy writings written in his own hand, and also messages by tongue to George Douglas, to be shewed to the Lord Ruthen, to have all things in readiness against his repairing to Edinburgh towards the slaughter of David, or otherwise he would put the same in execution with his own hands. In the mean time the said Lord Ruthen was practising with the Earl of Morton, who was the king's near kinsman, and with the Lord Lindsey, because his wife was a Douglas, and of consanguinity to the king ; and with a great number of barons, gentlemen, and freeholders, to assist the king in such affairs as he had to do ; and then they should have their religion freely established conform to Christ's book, and to the articles that the king had subscribed to the lords.

And after the king's return out of Seaton, he directed George Douglas to the said Earl of Morton and Lord Ruthen, to see what day should be appointed, with place and time, for the performance of the enterprise against David. The said earl and lord sent answer to the king, and declared they should have a sufficient number ready against Friday or Saturday the 8th or 9th of March, to do what he pleased; and enquired of the king what time he would have it the ratherest performed; for according to the said earl's and lord's opinion, they thought it best to take time when David should be in his own chamber in the morning, or in passing through the close: which the king refused *simpliciter*, and said he could not be well taken in his own chamber, nor no time in the morning, by reason that at night he tarried late with the queen's majesty; he lay in the over cabinet, and otherwhiles in Signior Francisco's chamber, and sometimes in his own, to which he had sundry backdoors and windows that he might escape at; and if so it were, all were lost. Therefore he would have him taken at the time of the supping, sitting with her majesty at the table, that he might be taken in her own presence; because she had not entertained him her husband according to her accustomed manner, nor as she ought of duty. To the which the said earl and lords were very loth to grant, and gave many reasons to the contrary, that it was better to have been done out of her presence, not in the same. Notwithstanding no reason might avail, but the king would have him taken in her majesty's presence, and devised the manner himself, as after followeth: That upon the Saturday at supper-time, the said Earl of Morton, Lord Ruthen, and Lord Lindsey, should have ready so many as would be assistants and partakers with the king, in their houses, against he should send them

word; and so soon as he sent them word, that the Earl of Morton should come in, and come up to the queen's utter chamber, and a company with him; and the said Lord Ruthen to come through the king's secret chamber; and that the king would pass up before by a privy passage to the queen's chamber, and open the door, wherethrough the said Lord Ruthen and his company might enter: and that the king himself should be speaking with the queen's majesty sitting at supper; the remanent barons and gentlemen to be in the court of the palace for keeping of the gates, and defending of the close, in case any of the lords or officers would endeavour to gain-stand the king's enterprize. The said Earl of Morton and Lord Ruthen having consideration of the king's devise towards the taking of Davie in the queen's majesty's chamber, were loth to grant thereto; yet the king would not otherwise, but have it done as he had devised. The said earl and lords considering he was a young prince, and having a lusty princess to lie in his arms afterwards, who might perswade him to deny all that was done for his cause, and to alledg that others perswaded him to the same, thought it necessary to have security thereupon; and a band was made in the king's name to the earls, lords, barons, freeholders, merchants, and craftsmen, declaring all that was to be done was his own devise, invention, and fact; and bound and obliged himself, his heirs and successors, to them, their heirs and successors, to keep them skeithless, and unmolested or troubled for the taking and executing of Davie in the queen's presence or otherwise, like as the band more at large specified hereafter word by word.

Be it kend to all men by these present letters: We Henry by the grace of God, king of Scotland, and hus-

band to the queen's majesty ; for so much we having consideration of the gentle and good nature, with many other good qualities in her majesty, we have thought pity, and also think it great conscience to us that are her husband, to suffer her to be abused or seduced by certain privy persons, wicked and ungodly, not regarding her majesty's honour, ours, nor the nobility thereof, nor the commonweal of the same, but seeking their own commodity and privy gains, especially a stranger Italian called Davie : which may be the occasion of her majesty's destruction, ours, the nobility, and commonweal, without hasty remedy be put thereto, which we are willing to do : and to that effect we have devised to take these privy persons, enemies to her majesty, us, the nobility, and commonwealth, to punish them according to their demerits ; and in case of any difficulty, to cut them off immediately, and to take and slay them wherever it happeneth. And because we cannot accomplish the same without the assistance of others, therefore have we drawn certain of our nobility, earls, lords, barons, freeholders, gentlemen, merchants, and craftsmen, to assist us in our enterprize, which cannot be finished without great hazard. And because it may chance that there be sundry great personages present, who may endeavour to gain-stand our enterprize, where-through some of them may be slain, and likewise of ours, where-through a perpetual feud may be contracted betwixt the one and the other ; therefore we bind and oblige us, our heirs and successors, to the said earls, lords, barons, gentlemen, freeholders, merchants, and craftsmen, their heirs and successors, that we shall accept the same feud upon us, and fortify and maintain them at the uttermost of our power, and shall be friend to their friends, and enemy to their enemies ; and shall neither suffer them nor theirs to be molested nor troubled in their bodies, lands, goods, nor possessions,

so far as lieth in us. And if any person would take any of the said earls, lords, barons, gentlemen, freeholders, merchants, or craftsmen, for enterprizing and assisting with us for the atchieving of our purpose, because it may chance to be done in presence of the queen's majesty, or within her palace of Holyrood-house, we by the word of a prince shall accept and take the same on us now as then, and then as now; and shall warrant and keep harmless the foresaid earls, lords, barons, freeholders, gentlemen, merchants and craftsmen, at our utter power. In witness whereof we have subscribed this with our own hand at Edinburg, the 1st of March 1565.

Upon Saturday the 9th day of March, as is conform to the king's ordenance and device, the said Earl Morton, Lords Ruthen and Lindsey, having their men and friends in readiness, abiding for the king's advertisement; the king having supped, and the sooner for that cause, and the queen's majesty being in her cabinet within her inner chamber at the supper, the king sent to the said earl and lords, and their complices; and desired them to make haste and come into the palace, for he should have the door of the privy passage open, and should be speaking with the queen before their coming, conform to his device rehearsed before. Then the said Earl of Morton, Lord Ruthen and Lord Lindsey, with their complices, passed up to the queen's utter chamber; and the said Lord Ruthen passed in through the king's chamber, and up through the privy way to the queen's chamber, as the king had learned him, and through the chamber to the cabinet, where he found the queen's majesty sitting at her supper at the middes of a little table, the Lady Argile sitting at one end, and Davie at the head of the table with his cap on his head, the king speaking

with the queen's majesty, and his hand about her waste. The said Lord Ruthen at his coming in said to the queen's majesty, It would please your majesty to let yonder man Davie come forth of your presence, for he hath been over-long here. Her majesty answered, What offence hath he made? The said lord replied again, that he had made great offence to her majesty's honour, the king her husband, the nobility and commonweal of the realm. And how? saith she. It will please your majesty, said the said lord, he hath offended your majesty's honour, which I dare not be so bold to speak of: As to the king your husband's honour, he hath hindred him of the crown matrimonial, which your grace promised him, besides many other things which are not necessary to be expressed. And as to the nobility, he hath caused your majesty to banish a great part, and most chief thereof, and forefault them at this present parliament, that he might be made a lord. And as to your commonweal, he hath been a common destroyer thereof, in so far as he suffered not your majesty to grant or give any thing but that which passed through his hands, by taking of bribes and goods for the same; and caused your majesty to put out the Lord Ross from his whole lands, because he would not give over the lordship of Melvin to the said Davie; besides many other inconveniences that he solicited your majesty to do. Then the said Lord Ruthen said to the king, Sir, take the queen's majesty your sovereign and wife to you, who stood all amazed, and wyst not what to do. Then her majesty rose on her feet and stood before Davie, he holding her majesty by the plates of the gown, leaning back over in the window, his whiariard drawn in his hand. Arthur Erskin and the abbot of Holyroodhouse, the laird of Crech, master of the household, with the French apothecary, and one of the

grooms of the chamber, began to lay hands upon the said Lord Ruthen, none of the king's party being present. Then the said lord pulled out his whiniard, and freed himself while more came in, and said to them, Lay not hands on me, for I will not be handled; and at the incoming of others into the cabinet, the said Lord Ruthen put up his whiniard. And with the rushing in of men the board fell to the wallwards, with meat and candles being thereon; and the Lady of Argile took up one of the candles in her hand: and in the same instant the said Lord Ruthen took the queen in his arms, and put her into the king's arms, beseeching her majesty not to be afraid, for there was no man there that would do her majesty's body more harm than their own hearts; and assured her majesty, all that was done was the king's own deed and action. Then the remanent gentlemen being in the cabinet, took Davie out of the window; and after that they had him out in the queen's chamber, the said Lord Ruthen followed, and bad take him down the privy way to the king's chamber; and the said lord return'd to the cabinet again, believing that the said Davie had been had down to the king's chamber, as said is; but the press of the people hurl'd him forth to the utter chamber, where there was a great number standing, who were so vehemently moved against the said Davie, that they could not abide any longer, but slew him at the queen's far door in the utter chamber. Immediately the Earl of Morton passed forth of the queen's majesty's utter chamber to the inner court, for keeping of the same and the gates, and deputed certain barons to keep Davie's chamber till he knew the queen's majesty's pleasure, and the king's. Shortly after their majesties send the Lord Lindsey and Arthur Erskin to the said Earl of Morton to pass to David's chamber, to fetch a black coffer with writings and cyphers, which the

said Earl of Morton delivered to them, and gave the chamber in keeping to John Simple, son to the Lord Simple, with the whole goods there, gold, silver, and apparel being therein. In this mean time the queen's majesty and the king came forth of the cabinet to the queen's chamber, where her majesty began to reason with the king, saying, my lord, why have you caused to do this wicked deed to me, considering I took you from a base estate, and made you my husband? what offence have I made you that ye should have done me such shame? The king answered and said, I have good reason for me; for since yon fellow Davie fell in credit and familiarity with your majesty, ye regarded me not, neither treated me nor entertained me after your wonted fashion; for every day before dinner, and after dinner, ye would come to my chamber and pass time with me, and thus long time ye have not done so; and when I come to your majesty's chamber, ye bear me little company, except Davie had been the third marrow: and after supper your majesty hath a use to set at the cards with the said Davie till one or two of the clock after midnight; and this is the entertainment that I have had of you this long time. Her majesty's answer was, It was not gentlewomens duty to come to their husbands chamber, but rather the husband to come to the wive's chamber, if he had any thing to do with her. The king answered, How came ye to my chamber at the beginning, and ever, till within these few months that Davie fell in familiarity with you? or am I failed in any sort of my body? or what disdain have you at me? or what offence have I made you, that you should not use me at all time alike? seeing that I am willing to do all things that becometh a good husband to do to his wife. For since you have chose me to be your husband, suppose I be of the baser degree, yet I am your head,

and ye promised obedience at the day of our marriage, and that I should be equal with you, and participant in all things. I suppose you have used me otherwise by the perswasions of Davie. Her majesty answered and said, that all the shame that was done to her, that my lord ye have the weight thereof; for the which I shall never be your wife, nor lie with you; nor shall never like well, till I gar you have as sore a heart as I have presently. Then the Lord Ruthen made answer, and besought her majesty to be of good comfort, and to treat her self and the king her husband, and to use the counsel of the nobility, and he was assured her government should be as well guided as ever it was in any king's days. The said lord being so feebled with his sickness, and wearied with his travel, that he desired her majesty's pardon to sit down upon a coffer, and called for a drink for God's sake; so a French man brought him a cup of wine, and after that he had drunken, the queen's majesty began to rail against the said lord: Is this your sickness, Lord Ruthen? The said lord answered, God forbid that your majesty had such a sickness; for I had rather give all the moveable goods that I have. Then, said her majesty, if she died, or her barn, or common-weal perished, she should leave the revenge thereof to her friends, to revenge the same upon the said Lord Ruthen and his posterity; for she had the King of Spain her great friend, the Emperor likewise, and the King of France her good brother, the Cardinal of Lorrain, and her Unkels in France, besides the Pope's Holiness, with many other Princes in Italy. The said lord answered that these noble princes were over-great personages to meddle with such a poor man as he was, being her majesty's own subject: and where her majesty said, that if either she, her barn, or the common-weal perished, the said Lord Ruthen should have the

weight thereof; the said lord answered, that if any of the three perished, her majesty's self and her particular counsel should have the weight thereof, and should be accused as well before God as the world: for there was no man there within that palace, but they that would honour and serve her majesty, as becometh true subjects; and would suffer no manner harm to be done to her majesty's body than to their own hearts; and if any thing be done this night that your majesty mislikes, charge the king your husband, and none of us your subjects; which the king confessed was of verity. In the same instant one came knocking fast at the queen's chamber door, declaring that the Earls Huntly, Athol, Bothwel, Cathness, and Sutherland, with the Lords Fleming, Levingstone, secretary, Tillibarn the comptroller, and Laird of Grant, with their own servants and officers of the palace, were fighting in the close against the Earl of Morton and his company, being on the king's party. The king hearing the same, would have gone down, and the Lord Ruthen staid him, and desired him to intreat the queen's majesty, and he would go down and take order amongst them. So the said lord passed to the close, born under the arm; and before his coming the officers were dwong into their houses; and the lords were holden in at the gallery door by the Earl of Morton and others being with him, and were constrained to pass up to the gallery and to their chambers. So the said Lord Ruthen passed up to the Earl Bothwell's chamber, where he found the Earls of Huntley, Sutherland, Cathness, the Laird of Grant, and divers others, to whom he shewed that the whole proceeding that was done that night, was done and invented by the king's majesty's own devise, like as his hand written was to shew thereupon; and how he had sent for the lords that were banished in England and Argyle, who would be

there before day : And because there was some enmity unreconciled betwixt the Earls of Huntly and Bothwell, and the Earls of Argyle and Murray, and their colleagues, the said lords promised in their names, that it should be mended at the sight of two or three of the nobility, they doing such like to them ; whereupon the said Earls of Huntly and Bothwell gave the Lord Ruthen their hands, and received his for th' other part : and after they had drunken, the said Lord Ruthen took his leave of them, and passed to the Earl of Athol's chamber, accompanied with the Earls of Cathness, Sutherland, and the Laird of Grant ; and found with the said earl the comptroller, secretary, Mr. James Balfour, and divers others : and because of the familiarity and kindness betwixt the Earl of Athol and the Lord Ruthen, the said earl began to be angry with the said lord, for that he would not shew him what enterprise soever that he had to do ; whose answer was, that it was the king's action and the king's devise, and that none of them had further meddling therewith than the king had commanded, like as his hand written did testify. Yet the said earl enquired further upon the said Lord Ruthen, why he would not let him wit thereof : the said lord answered, it was the king's secret ; and feared if he had given knowledg thereof, he would have revealed it to the queen's majesty, which might have been a hindrance of the purpose, and caused the king have holden me an dishonest man for my part. The said earl perceiving that all that was done was the king's own deed, desired the said Lord Ruthen to pass to the king, and get him leave to pass to his country, and so many as were presently in the chamber with him. In this mean time the Earls of Bothwell and Huntly taking a fear of the other lords returning out of England and Argyle, and because they were hardly imprisoned before, thought it better to escape too than

to remain ; so they went out at a low window, and passed their ways. In the mean time while the Lord Ruthen was with the Earl of Athol, the king declared to the queen's majesty, that he had sent for the lords to return again ; whereunto she answered, she was not in the blame that they were so long away : for she could have been content to have brought them home at any time, had not been for angering the king ; and to verify the same, when her majesty gave a remission to the duke, the king was very discontent therewith : whereto the king answered, that it was true that the king was discontented then, but now he was content, and doubted not but she would also be content to persevere in the good mind to them as she had done before. At the same time came the Provost of Edinburgh, and a great number of men of the town with him in arms to the utter court of the palace of Holyroodhouse, where the king called out of the window to them, commanding them to return to their houses, like as they did ; for he declared to them that the queen's majesty and he were in good health. The Lord Ruthen being come up to the queen's chamber again, where the king was beside her, he shewed them that there was no hurt done, and that the lords and all others were merry, and no harm done. Then her majesty enquired what was become of Davie. The said Lord Ruthen answered, that he believed he was in the king's chamber ; for he thought it not good to shew her as he died, for fear of putting her majesty in greater trouble presently. Then the queen's majesty enquired of the said lord what great kindness was betwixt the Earl of Murray and him, that rather than he and the remanent should be forfaulted, that he would be forfault with them. Remember ye not, said she, what the Earl of Murray would have had me done to you for giving me the ring ? The said Lord Ru-

then answered, that he would bear no quarrel for that cause, but would forgive him and all others for God's sake; and as to that ring, it had no more virtue than another, and was one little ring with a pointed diamond in it. Remember ye not, said her majesty, that ye said it had a virtue to keep me from poisoning? yea, madam, (said he) I said so much that the ring had that virtue, only to take that evil opinion out of your head of poisoning, which you conceived that the Protestants would have done; which the said lord knew the contrary, that the Protestants would have done no more harm to your majesty's body than to their own hearts; but it was so imprinted in your majesty's mind, that it could not be taken away without a contrary impression. Then said her majesty to the said lord, what fault or offence have I made to be handled in this manner? Inquire, said he, at the king your husband. Nay, said she, I will enquire of you: who answered, madam, it will please your majesty, ye well remember that ye have had this long time a few number of privy persons, and most special Davie, a stranger Italian, who have guided and ruled you contrary the advice of your nobility and counsel, and especially against these noblemen that were banished. Her majesty answered, were ye not one of my council? what is the cause that ye should not have declared, if I had done any thing amiss against them that became me not? The said lord answered, because your majesty would hear no such thing: for all the time that your majesty was in Glasgow or Dumfriese, let see if ever ye caused your council to sit, or to reason upon any thing, but did all things by your majesty's self and your privy persons, albeit the nobility bare the pains and expences. Well, said her majesty, ye find great fault with me, I will be contented to set down my crown before the Lords of the Articles;

and if they find I have offended, to give it where they please. Then answered the Lord Ruthen, and said, God forbid, madam, that your crown should be in such hazard ; but yet, madam, who chose the Lords of the Articles ? Not I, said she. Saving your majesty's reverence, said the Lord Ruthen, ye chose them all in Seaton, and nominated them : and as for your majesty's council, it hath not been suffered to wait freely this long time, but behoved to say what was your pleasure. And as to the Lords of the Articles, your majesty chose such as would say whatsoever you thought expedient to the forfaulters of the lords banished : And now when the Lords of the Articles have sitten fourteen days reasoning on the summons of treason, have ye found a just head wherefore they ought to be forfaulted ? No, madam, not so much as one point, without false witness be brought in against them ; whereunto she gave no answer.

The said Lord Ruthen perceiving that the queen's majesty was weary, he said to the king, sir, it is best ye take your leave at the queen's majesty, that she may take rest : So the king took his good-night and came forth of the queen's chamber, and we with him, and left none there but the ladies, gentlewomen, and the grooms of the queen's majesty's chamber. And so soon as the king came to his own chamber, the said Lord Ruthen declared the message he had from the Earl of Athol to the king, that he might have license to return home to Athol : which the king was loth to do without he gave him a band that he should be his. The Lord Ruthen answered, that he was a true man of his promise, and would keep the thing he said, as well as others would do their handwriting and seal. Then the king desired the said Lord Ruthen to fetch the Earl of Athol to him ; which he did : And after the king and Earl of Athol had talked toge-

ther, he desired the said earl to be ready to come whensoever he should send for him. His answer was, that whensoever it pleased the queen's grace and him to send for him, that he would come gladly : And the said earl desired the king that he might speak with the queen's majesty, which the king refused. And then the said earl took his good night, and passed to his chamber, and the Lord Ruthen with him, where he made him ready and his company to pass forth, like as they did ; and in his company were the Earls of Sutherland and Cathness, the Master of Cathness, the secretary, and controler, Mr. James Balfour, the Laird of Grant, with divers others. Immediately the king directed two writings, subscribed with his hand on Saturday after the slaughter of Davie, to certain men of Edenburg bearing office for the time, charging them to convene men in arms, and make watch within the town upon the calsay ; and to suffer none others to be seen out of their houses, except Protestants, under all highest pain and charge that after may follow. And on the morrow after, which was Sunday the 10th of March, the king directed a letter, subscribed with his hand, making mention that it was not his will that the parliament should hold, for divers causes, but discharged the same by the tenor thereof : And therefore commanded all prelates, earls, lords, barons, commissioners, and barrowis, and others that are warned to the said parliament, to depart from Edenburg within three hours next after that charge, under the pain of life, lands, and goods, except so many as the king by his special command caused to remain ; which letter was openly proclaimed at the Market-Cross, and fully obeyed. The gates being locked, the king being in his bed, the queen's majesty walking in her chamber, the said Lord Ruthen took air upon the lower gate, and the privy passages : and at the

king's command, in the mean time, Davie was hurled down the steps of the stairs from the place where he was slain, and brought to the porter's lodg; where the porter's servant taking off his clothes, said, 'This hath been his destiny; for upon this chest was his first bed when he entred into this place, and now here he lieth again, a very ingrate and misknowing knave. The king's whiniard was found sticking in Davie's side after he was dead; but always the queen inquired of the king where his whiniard was? who answered, that he wit not well: Well, said she, it will be known afterwards.

On the morrow, which was Sunday, March 10, the king rose at eight of the clock, and passed to the queen's majesty's chamber, where he and she fell to reasoning of the matter proceeded the night afore, the one grating on the other till it was ten o'clock, that the king came down to his chamber; and at his coming from her, she desired him to let all the ladies and gentlewomen come unto her; which the king granted, and at his coming down shewed the same to the Earl of Morton and Lord Ruthen, who were not contented with the same; and shewed the king, that they feared that the queen's majesty would traffick by them with the lords, and all other that would do for her, like as it followed indeed: For instantly her majesty wrote some writing, and caused them to write others in her name to the Earls of Argile, Huntly, Bothwel, Athol, and others. After that the king had dined, on Sunday he passed up to the queen's majesty's chamber, where the queen made as she would have parted with barn, and caused the midwife come and say the same. So her majesty complained that she could get none of the gentlewomen to come up to her, Scots nor French. The king sending this word to the Earl of Morton and Lord Ruthen, all were let in that pleased. At the same time

the queen's majesty thought that the Lord Ruthen would do her body harm, and sent John Simple, son to the Lord Simple, to the said Lord Ruthen, to enquire what her majesty might lippen unto in that behalf: Whose answer was, that he would no more harm to her body than to his own heart; if any man intended to do otherwise, he should defend her majesty's body at the uttermost of his power. And further the said lord said, her majesty had experience of his mind in that night's proceeding, when he suffered none come near her majesty to molest and trouble her. The said John Simple brought this message to the said Lord Ruthen at two of the clock afternoon, on Sunday, sitting then in the king's utter chamber at his dianner. At four of the clock the king came down to his chamber, where the Lord Ruthen shewed him that the queen's majesty was to steal out among the throng of the gentlewomen in their downcoming, as he said he was advertised. So the king commanded him to give attendance thereto; which he did, and put certain to the door, and let no body nor gentlewoman pass forth undismuffled.

After, about seven or eight of the clock, the Earls of Murrey and Rothes, with their complices, came out of England, and lighted at the abbey, and were thankfully received of the king; and after certain communing, the Earl of Murrey took his good-night of the king, and passed to the Earl of Morton's house to supper. Immediately thereafter, the queen's majesty sent one of her ushers, called Robert Phirsell, for the said Earl of Murrey; who passed to her majesty, whom she received pleasantly, as appeared; and after communing, he passed to the Earl of Morton's house again, where he remained that night. At this time the king remained communing with the queen's majesty, and after long reasoning with her, she granted to lie with him all night, he coming to her cham-

ber, and putting all men out of his utter chamber, except the waiters of his chamber, and made a complaint that her gentlewomen could not go forth at the door undismuffled at the king's coming down. He shewed the said Earl of Morton, and Lord Ruthen, the whole manner of his proceedings with the queen's majesty; which they liked no way, because they perceived the king grew effeminate again; and said to him, we see no other but ye are able to do that thing that will gar you and us both repent. Always he would have the said earl and lord to rid all the house, conform to the queen's majesty's desire; which they did, and the said Lord Ruthen passed and lay in the king's wardrobe: and after he was lien down, George Douglass came to him, and shewed him that the king was fallen asleep. The said lord caused George to go to wake the king; and after that he had gone in twice or thrice, finding him sleeping so sound, he would not awake him. Thereat the said lord was very discontented; the king slept still till six in the morning, that the Lord Ruthen came and reproved him, that he had not kept his promise to the queen's majesty, in lying with her all that night. His answer was, that he was fallen on such a dead sleep that he could not awaken; and put the blame to William Tellor one of his servants that permitted him to sleep. But always, said he, I will take my night-gown and go up to the queen. The said Lord Ruthen answered and said, I trust she shall serve you in the morning as you did her at night. Always the king passed up, being Monday the 11th of March at six of the clock, to her majesty's chamber, and sat down on the bedside, she being sleeping, or at least made her self so, and sat there by the space of one hour e're she spake word to him. Then when her majesty waked, she enquired of the king, why he came not up yesterday night conform to his promise? he answered, he

fell in so dead a sleep, that he awaked not afore six. Now, saith he, am I come, and offered to lie down beside her majesty; but she would not suffer him, for she was sick, and said, she would rise incontinent. Then the king fell in reasoning with her majesty towards the returning of the said lords that were banished, and forgiving of them all offences, and likewise for the slaughter of Davie: and as appeared to him her majesty was content; for the king came down to his own chamber at eight of the clock very merrily, and shewed the said Earl of Morton and Lord Ruthen, the proceedings betwixt him and the queen's majesty: who answered him, and said, all was but words that they heard. For look how ye intend to perswade her majesty; we fear she will perswade you to follow her will and desire, by reason she hath been trained up from her youth in the court of France, as well in the affairs of France as Scotland, in the privy council. Well, said the king, will ye let me alone, and I will warrant to dress all things well. And after that the king had put on his clothes, he passed at nine to the queen's chamber, where he reasoned of many things with her majesty: And at his returning to his dinner at eleven, he declared to the Earls of Murrey and Morton, Lords Ruthen and Lindsay, that he had dressed the queen's majesty; that the said two earls, and Lord Ruthen, should come to the presence of the queen's majesty, and she would forgive, and put in oblivion all things by-past, and bury them out of her majesty's mind, as they had never been. The said earls and lords answer'd, that all that speaking was but policy; and suppose it were promised, little or nothing would be kept. Always the king took freely in hand, and bad them make such security as they pleased, and the queen's majesty and he should subscribe the same. And then after dinner the king passed up again to the

queen's chamber, where the midwife was made to come to him, and said, that the queen would not fail to part with barn, if her majesty went not to some other place where there were more freer air; and in like manner divers of the lords said the same. And the king returning to his chamber at three afternoon, declared the same to the said earls and Lord Ruthen: And, in the meantime, in came the French doctor, who declared to the king, that it was unable to the queen's majesty to eschew a fever; which, if she take, she will not fail to part with barn, without she were transported from that place to some better aired place. After they were departed, the king inquired of the said earls and lords, what they thought of their speaking? who answered, they feared all was but craft and policy that was spoken and done. Always the king would not trow the same, and said, that she was a true princess, and that thing she promised, he would set his life for the same. And between four and five afternoon, the king passed to the queen's chamber, and took the Earls of Morton, Murrey, and Lord Ruthen with him; and after they had come to the queen's utter chamber, the king went in and left the lords, to know her pleasure, whether her majesty would come out of her utter chamber, or if the lords should come into her majesty. She took purpose, and came out of the utter chamber, led by the king; the said earls and lords sitting down upon their knees, made their general oration by the Earl of Morton, chancellor, and after, their particular orations by themselves. And after that her majesty had heard all, her answer was, that it was not unknown to the lords, that she was never blood-thirsty, nor greedy upon their lands and goods, sithence her coming into Scotland; nor yet would be upon theirs that were present, but would remit the whole number that was ba-

nished, or were at the last dead ; and bury and put all things in oblivion as if they had never been ; and so caused the said earls, lords, and barons, to arise on their feet. And afterwards her majesty desired them to make their own security in that sort they pleased best, and she should subscribe the same. Thereafter, her majesty took the king by the one hand, and the Earl of Murrey by the other, and walked in her said utter chamber the space of one hour ; and then her majesty passed into her inner chamber, where she and the king appointed, that all they that were on the king's party, should go forth of the place after supper. The king coming down to his chamber afore six of the clock, the articles which were the security that were on the king's party, were given by the Earls of Murrey and Morton, and Lords Ruthen and Lindsey, to the king, to be subscribed by the queen, which the king took in hand, so soon as he had supped, to be done ; and he desired the said lords to remove themselves out of the palace, to that effect, that her majesty's guard and servants might order all as they pleased. The lords answer was to the king, You may well cause us to do that thing that is your pleasure, but it is sore against our wills ; for we fear all this is but deceit that is meant towards us, and that the queen's majesty will pass away secretly, and take you with her, either to the Castle of Edenburg, or else Dunbar. And here the Lord Ruthen protested, that what end followed thereupon, or what blood was shed for the same, that it should come upon the king's head and posterity, and nought upon theirs. The king said, he should warrant all. So they departed and took their leave of the king, and passed all forth of the palace of Holyroodhouse to the Earl of Morton's house, where they supped ; and after supper directed Mr. Archibald Douglas to the king, to see if the queen's

majesty had subscribed the articles of the lords and barons security. The king gave answer, that he had let the queen's majesty see them, who found them very good ; and because she was sick and going to her bed, she delayed the subscribing of them to the morning ; and immediately after Mr. Archibald returned to the lords with answer. The Laird of Traquair, master of the guard, made an arrant to the Earl of Murrey, to see what the lords were doing, and after he was departed, the whole earls, lords, and barons, with gentlemen, passed to the town of Edinburgh to their beds, believing surely the queen's majesty's promise, and the king's.

The same night, about one a clock after midnight, the queen's majesty, and the king with her, went out at one back-door that passed through the wine-cellar ; where Arthur Erskin the captain of the guard, and other six or seven persons, met her majesty with her horses, and rode toward Dunbar ; and on the morrow, which was Tuesday, the 12th of March, the lords hearing how the queen's majesty was departed, and taken the king with her, convened the earls, lords, barons, and gentlemen, and after the matter was appointed, enquired every man's opinion, which concluded all to remain in the town of Edinburgh, till such time they might send some noblemen to her majesty, for performance of the articles promised for their security ; and to that effect sent for the Lord Simple, and desired him that he would pass to Dunbar with a writing of the lords, which he granted to do, and received the same, with a copy of the articles that the king received before, and promised to do his utter diligence to get the same immediately sped, if it were the king and queen's majesties pleasure so to do. After the Lord Simple's coming to Dunbar, having presented the lords writing to their majesties, he was evil taken with the queen's ma-

jesty, who caus'd him to remain three days; he reported at his returning, that there was no good way to be looked for there, but extremity to the earls, lords, and gentlemen, who had been at the slaughter of David, notwithstanding her majesty's promise made before. At that time her majesty being in Dunbar, wrote to all earls, lords, barons, to meet her in Haddington town, the 17th or 18th of March, and likewise directed universal letters, charging all manner of men, betwixt sixty and sixteen, to be there, day and place aforesaid, being in arms in fear of war; and also sent divers charges to the Lord Eskin, captain of the Castle of Edinburgh, to shut up the town, unless the lords departed out of it. In this time it was declared to the Earl of Murrey, that if he would sue address to the queen's majesty, he would obtain the same, who shewed the same to the lords, who counselled him to write to her majesty to that effect; which he did, and received her majesty's answer, with certain articles. In this time the Earl of Glencarn and Rothes took their appointment of the queen's majesty. The Earl of Morton, Lord Ruthen, and remanent their complices, perceiving that the queen's majesty was willing to remit the lords banished into England and Argyle, and bare her majesty's whole rage against them that were with the king at the slaughter of Davie, thought best to retire themselves into England under the queen's majesty of England's protection, till such time as the nobility of Scotland their peers understood their cause: for they have done nothing without the king's command, as is before mentioned, and doubt not but their cause shall be found just and honest whensoever the same be tried; and lament the extream handling contrary to order and justice, that they may not compear for fear of their lives; in respect that her majesty hath caused a band to be made, and all

earls, lords, and barons that resorted to her majesty, to subscribe the same, that they shall pursue the said Earl Morton, Lord Ruthen, and Lindsay, and their complices, with fire and sword; which is against all order of the law: And on Saturday the 22d of March her majesty hath caused to be summoned the said Earl of Morton, Lords Ruthen and Lindsay, the Master of Ruthven, Lairds of Ormyston, Brinston, Halton, Elvelston, Calder, Andrew Carr of Faldomside, Alexander Ruthen, brother to the Lord Ruthen, Patrick Murray of Tippermure, William Douglas of Whittingham, Mr. Archibald Douglas his brother, George Douglas, Lyndzay of Prystone, Thomas Scot of Cambysmichet, of Perth, William Douglas of Lochleven, James Jeffert of Shreffal, Adam Eskin, commendator of Camskinnel, Mentershfeare of Kars, Patrick Ballenden of Stenehouse, brother to Justice Clerk, Patrick Wood of Conynton, Mr. James Magil, Clerk of Registers, with others, to compear before her majesty and secret council within six days, under the pain of rebellion, and putting them to her horn, and eschetting and bringing of all their moveables goods, the which like order is not used in no realm christened; nor is it the law of Scotland of old; but new cropen in, and invented by them that understand no law, nor yet good practise: and how her majesty hath handled the barons of Lothian our brothers, it is known; and in likewise our poor brethren of Edinburgh, merchants and craftsmen, and how they are oppressed by the men of war God knoweth, who will put remedy hereto when it pleaseth him best: and how the lords and barons wives are oppressed in spoiling of their places, robbing of their goods without any fine for the same, it would pity a godly heart. And where her majesty alledged, that night that Davie was slain some held pistols to her majesty's womb,

some stroke whiniards so near her crag, that she felt the coldness of the iron, with many other such like sayings, which we take God to record was never meant nor done; for the said Davie receiv'd never a stroke in her majesty's presence, nor was not stricken till he was at the farthest door of her majesty's utter chamber, as is before rehearsed. Her majesty makes all these allegations to draw the said Earl Morton, Lords Ruthen and Lindsay, and their complices, in greater hatred with other foreign princes, and with the nobility and commonalty of the realm, who have experience of the contrary, and know that there was no evil meant to her majesty's body. The eternal God who hath the rule of princes hearts in his hands, send her his Holy Spirit to instruct her how she should rule and govern with clemency and mercy over her subjects. Written at Berwick,* day of March 1565. (*sic in the orig.* but the true date is 1566, N. S. *vide infra.*)

* The 28th is inserted here in Triphook's copy. The original edition concludes with two pages (50 and 51) from Buchanan's History, fol. 211, lib. 17, which need not be copied here.

[“ This zeire, 1566, the 9 day of Marche, David Risius. ane Italiane, secretarey to the Queine for the Frenche tounge, was forcibly drauen out of the parlor quher the Queine was at supper, to ane vtter roume, and stabbed by some noblemen, animat to that homicide by the King, the Queins husband; his corpes was interred in the churchzaird of Holyrudhousse abbey. The Queine being grate with chyld, did all shoe could to haue saued his lyffe; zea, quhen strenth could not doe, shoe bitterly weipte, bot to no ende, he was so quickly dispatched.” — *Balfour's Historical Works*, vol. i. p. 334.]

THE
HISTORIE OF SCOTLAND,
DURING THE
MINORITY OF KING IAMES.

WRITTEN IN LATINE BY ROBERT JOHNSTON.
DONE INTO ENGLISH BY T. M.

LONDON :
PRINTED BY W. WILSON, FOR ABEL ROPER;
AND ARE TO BE SOLD AT THE SUN AGAINST ST. DUNSTANS
CHURCH IN FLEET STREET.

MDCXLVI.

[Having given the original title to the following translation of those parts of the first two books of Robert Johnston's History, which treat of Scottish affairs, we may observe, that what we have reprinted forms a small volume (24mo.) of 164 pages, besides the preliminary matter; and we agree with Dr. Irving (in his "Lives of the Scottish Poets," vol. 1, page 126,) that the initials of the translator's name probably denote Thomas Middleton, author of the *Appendix to Spotswood's History*. When the present translation was published, only the first two books of the original Latin had appeared; these were printed at Amsterdam in 1642, (24mo.) In the title, we are told, "*Sunt præter hos adhuc XX libri, qui Typographo nondum in manus venerunt.*" The complete work, in twenty-two books, forms a handsome folio volume, also printed at Amsterdam, in 1655.—"Respecting Johnston himself," says Dr. Irving, "very little is known. Dempster informs us, that he was a favourite at the court of James the Sixth. His editor styles him, '*vir bonus ac honestus*;' and this simple character is preferable to the most elaborate encomium. He bequeathed a part of his books to the University of Edinburgh: but what T. M. has asserted with respect to his endowment of fellowships in the same university, is completely erroneous." Bishop Nicolson remarks, that Buchanan's History was "continued in the same fine language, by Robert Johnston." Hume (in his first edition) has bestowed upon our author the title of excellent historian, "at which Lord Hailes cavils, and, perhaps somewhat unjustly, taxes him with want of faith in not quoting his authorities; a thing which could hardly have been expected of him, when writing so near the period of which he treats." We shall conclude this slight introductory notice, with the concise but discriminating critique from the pen of the learned and elegant author of "The Elements of General History," and other well known works.—"Robert Johnston was author of *Historia Rerum Britannicarum*, &c. ab anno 1572, ad annum 1628, *Amstel.* 1655, a work of great merit, whether we consider the judicious structure of the narrative, the sagacity of the reflections, the acute discernment of characters, or the classical tincture of the style. In these passages of his History, where there is room for a display of eloquence, he is often singularly happy in touching those characteristic circumstances which present the picture strongly to the mind of the reader, without a vain parade of words, or artificial refinement of sentiment. We may cite as an example his description of the death of Mary Queen of Scots, *Lib. IV. sub anno* 1586; and the circumstances attending the death of Essex, with the author's reflections on that event, *Lib. IX. sub anno* 1601. A translation of this work, with notes, in the manner of commentary, would be a most acceptable present to the public; but it would require a writer of superior ability, and deeply read in the history of the times, to do justice to such an undertaking. Johnston was one of the executors of George Herriot, jeweller to King James VI., the founder of the magnificent Hospital for the education of orphans at Edinburgh, which bears his name; and the historian informs us, that the endowment, splendid as it is, would have been greatly more so, *si Reges* (meaning James and Charles) *et Buckinghamius obligatam fidem liberassent.*"—*The late Lord Woodhouselee's Life of Lord Kames*, 4to edit. vol. i. *Appendix*, page 3.]

THE TRANSLATOR TO THE READER.

INGENIOUS Reader, this carping age, I know, expects an apology, though I have done nothing worthy thereof, yet lest I should infringe the prescript of custome, (which parallel in prevalency with nature), which is to premise something like a *preludium* to entertaine my reader, I must render those adamantine attractives which gave being to this metamorphosis. History (not to fall into common places thereof) is a more lasting pillar than that of Absolon ; for sure we had never heard of that pillar, had it not bin upheld by the sacred pillar : It perpetuates the memory in the leaves of eternity, rescuing old age from the jawes of oblivion, adorning youth with gray haire of experience, so that we may well say,

“ Nos jam jam a pueris illico nascimur senes.”

This induced my eyes to wander amongst the tombs of our forefathers, where besides a catalogue of those rare vertues which enriched the celestially sparkles, their souls, there was black epithites of vice, which more depressed others fame, then the marble did their bodies. The first, I supposed, writ for invitation to imitate, the second to stand like an *index anchoralis*, or sea-marke, lest posterity should collide upon the same rocke. But to draw my self into a lesser circle, finding the History of Scotland to be a stranger unto us, of the same isle : especially that of our late King James, whose checkered fortune may run equipage with the most potentates. I fixed by the propitious diety, my eyes upon this production of Master Robert Johnstons, where having fed my memory with a sufficient banquet, I could do no lesse, being conscious, that *omne bonum est diffusivum*, then force him to leave his

exoticke, and appear in our own language, but *dulcius ex ipso fonte bibuntur aquæ*. Water is best at the spring head, I know it, and desire that such whose ingenuity can, will read him in his owne character, as for others, give them leave to tast at second hand: but the author loseth his lustre, I confesse it, yet so farre as the propriety of our speech, and my weak intellect can reach, I will be carefull thereof; if some criticall grammarians thinke that I wander too far from home, pray let them know I am not reading a verball translation, yet dare presume the sence of the author is no wayes invarted, and who knows not that we have Anglisismes as well as the Latine have their proprieties; remember that sage and learned speech.

“Nec verbum verbo reddere cures.”

For the Translation I say no more, then that it was the work of one, who could say in part with Seneca, *Non vaco somno, sed succumbo et oculos vigilia fatigatos, cadentesq; in dolore detineo*.* If my pen seem sometime to play the wanton, know it was used in a liscencious time, and take but an inch where it might have an ell. Thus I am ingenious in confession (and so no Antinomian) be as ingenious in remitting, so thou wilt be a true christian.

The author, who hath paid nature her due, having no issue descended from his loynes, well knew the maxime *libri sunt liberi*, which caused him be so profuse in giving life to 22. books, a concatenation of the memorable passages in this our Isle, and our neighbour of Ireland, with some exoticckes from the year 1571, to the year 1629, two wherof only saw light, the rest running the same hazard which abortives doe, are involved in a Scotch mist.

I have entirely transcribed the History of Scotland, so far as is extant, knowing that Master Cambden (who now speakes English) will supply the rest for our own nation, that the author had no other end than free himselfe from that tye, wherewith he stood

* Sen. Ep. 8.

engaged to his countrey, may appear in all his actions, an abbreviation whereof is writ in these, or the like characters, over Edenborough Colledge gate :

Master Robert Johnston, doctor of the civill and canon law, expended upon this University eight fellowships, the disbursements concerning which amounted to twelve thousand pounds ; he enriched the Library with many volumes ; commanded John Joffy to erect these foure chambers, and by his last will hee left 40000 pound to be distributed in pious uses for the city, with many other deeds of his bountiful minde, he left them as eternal monuments of his piety in the year of our Lord 1639.

If my infant quill shall faile in its enterprize, and by blotting these few sheets, blot the author's candor, and perspicuity : let me desire thee, by that which is the desires of thy soule, to take off those imputations from the author by a metamorphosis of thy owne ; thus I shall be perpetually engaged to thee in condescending to my poore requests, and the world to me, in that I have engaged thy quill.

“ *Carpere vel noli nostra, vel ede tua.*”—*Mart.*

Thine, if favorable,

T. M.

THE AUTHOR TO THE READER.

IF I who have taken upon me to handle, and let posterity know those memorable acts of Queen Elizabeth and King James ; having herein given demonstrations of greater diligence, and fidelity, then eloquence of phrase, can by these my intellectualls, and willing endeavours, adde any sparkle to the beauty of this our Britaine, I shall account it a superabundant fruit of my labours : and as I dare not invite your pallat to any excellent, or egregious banquet ; having taken an account of my owne strength, where I finde nothing save a great burthen, and perhaps a dangerous undertaking. The integrity of my conscience, the wisdom and humanity of my readers, who will deigne to foster, I doubt not, these my lucubrations, gave life to my resolves in displaying those heroick performances of the fore-named potentates to the open view of all. Beleeve it, my faith is not mercenary, nor pinned upon any mans favour. I have brought forth no abortive, the product of my braine I sacrifice to your censures, so I am full of hopes my labours shall not be ingratull. And now, gentlemen, I supplicate upon the knees of ardency, that you adhibite such equity in reading, as you desire me to do in writing : I look for no other reward of my endeavours than this, of a good report, and permanent memory when I have satisfied nature. I value not much what breath every man is pleased to blow upon this infant, knowing that there is not any thing sublunary so exquisite, which will relish in the critical pallats of our sciolists, who suppose themselves the censurers of elegancy. My language is not in that character, that an ingenious reader may give it an ambiguous interpretation, or call any thing into question ; seeing that naturally benevolent and understanding men are courteous, and so humane, as to give

every man his due, not eyeing so nearely the ornaments of speech as the truth thereof: whereas maligning, base, harsh, detracting, envious spirits, put all things well spoken upon the rack of a sinister interpretation, depraving the whole structure of the building, erecting strong batteries of malice against others. If the bolts of these men are shot from the bowes of levity, or rashnesse, I matter not: if from the vulgar ignorance, I despise it: if of malice, I forgive them: But I tremble at, nay rather adore and admire the others gravitie, prudencie, authority. It lyes not in the verge of any mortall to compose a ditty delightfull to every eare, seeing some delight to wallow in the mire of obsolete words; while others set their repose in grave and sage sentences: others take pleasure in laconical brevity, and are overjoyed with a concise and subtile pen; others, as if offended with brevity and over accutenesse, labours after a dilated and sublime language; it's the folly now in fashion amongst our writers, to effect Cæsars sublime eloquence, Cato or Salusts brevity, Tacitus pompe, Livies eagle-soaring and sweetly moving speech. This production, I ingeniously confesse, hath not any indument above the vulgar: expect only to see her present you with Britains actions, barely invested with cloathes of necessity, devoyd of fucus, imbrodering insinuation, or inveterate heart-burning. Might my trembling pen adde any tittle of honour to their late illustrious majesties: or muzle the blacke mouthes of detraction then my desires arrive at the haven of repose. Lastly, having sequestred my thoughts from gaping after vaine breath of praise and popular applause, I send not this forth as an herald of my ingenuity, but rather an index of labour, which will say my end of intention was not glory, but desire of truth, and a good report in after ages. I matter not what calumnies the ignorant, or criticks do cast, or the obliterations of such, who personating censorers, metamorphose many things according to the dictate of their owne will, botching up some few depraved additions, or else lop off seeming exuberances, who suppose no author worthy their perusall which speaks not with a refined Ciceronian tongue, supposing to compose a garland of glory for their owne browes, by descanting on letters or syllables, if by a bare conjec-

ture they can restore lustre to any one word, they are presently elevated with a superstoicall arrogancy: Mistake me not, for as I cannot embrace the confidence of these men, so by no means do I derogate any thing from the various prelections of the learned, from their corrections, observations (which are collected with fidelity and modesty, both in opinion and conjecture) upon the obscure and depraved places of authors. But me thinks I heare some say, What a candle at noon day, Mr. Cambden being every way a superlative scholar, hath compiled annals both true, naked, comely, and delectable, of such acts as Queen Elizabeths reigne produced, which might deter any other from writing thereof. Surely, that rare author weighes as sad in the ballance of my understanding as in any others: and by how much he exceeds in modesty, so much the more he attracts me to light my candle at his luminary: nor can I memorize him without a congratulation, in that he would accommodate others whose minds were bent upon compiling an history, with convenient matteralls, as he candidly attests in his Preface to the Reader: If so, I hope my candid and impartiall judges (who have the authority to adjudg of my imbecility and rash attempts) will acquit these my imbicile endeavours, after so exquisite an author, not to be altogether foolish, nor my undertakings rash: however, I know, they will absolve me as innocent, pardon me if nocent. To draw to a haven, if any popeling shall brand me for seeming to elevate the Queen of England above the sphere of her deserts, let him know, truth speaks not the commemoration of any benefit I enjoyed, or the hope of future advancement; it was the chariot of those angelicall vertues adorning her soule, which mounted her so high, for which that wicked brood in vaine envied her; and as infamous rebels (who had divested themselves of all allegiance and fidelity to prince or countrey) barked against her in their pulpits, against whom the wicked Jesuites inveighed, those whom neither fear nor modesty, nor religion, could deter from machinating the most wicked of plots, robbing by the high way without being punished, amplifying their fortunes so far as either their violence or deceit could extend; hatching plots to ruinate the nobility, disturbing the

kingdom by their temerity and madnesse, and foster the ignorant multitude with frenzy, that they alone like wolves or lyons might dominier in the church. For my part, I suppose every writer is engaged to resist and delineate their rash attempts, and perfidious practices, who strive to overthrow their countrey ; being authors and archietectors of every molestation. And now readers let me tell you in this tract, it will be no less apparent than if writ with a beam from the sun, how zealous I have prosecuted what ever might be materiall to the truth of history, to excite my readers minds to embrace vertue, honesty, and wisdom. If in the least degree I hold correspondency with your expectations, and execute my office, (a faithfull historian) my exultations will be abundant, if my judgement (which surely is very little) may have your approbations, your often perusall of these my endeavours will invite me so much the more to perfect and put a period to my begun purposes : so that I shall be at your command, ready to give life to some other birth of my braine.

AD

ROBERTUM JOHNSTONUM,

SCOTO-BRITANNUM.

*Ingenii Johnstone tui sum factus amator,
 Historiæ legerem dum monumenta tuæ.
 Nil magis ingenuum, nihil ingeniosius extat
 Tergeminæ Britonum gentis in Historia.
 Excipias unum Morum de rege Ricardo
 Nemo Britannorum dignior invidia.*

JO. OWEN.

Taken from the last page of the Preface to the Original Latin of the first Two Books—Amsterdam, 1642.

THE

HISTORIE OF SCOTLAND,

DURING THE

MINORITY OF KING JAMES.



ANNO DOMINI 1572.

THE diadem of Scotland adorned King James the sixth, ere his head was wel out of its cradle, his mother consenting thereto: but the disparity betwixt his age and rule, caused him govern by proxie: so that while a guardian sate at the sterne of the common-wealth, he enjoyed the sovereignty and title of king: His childe-hood was placed in the hazards of extreame danger, tossed by the strivings of fortune; hee was bereaved of his father, while the cradle was the place of his repose; the horrid tempests of bosome jars and civill distempers, hurried the queene mother (having devested herself of majesticall robes) into exile. Nor was the period set here, for he was well nigh overwhelmed by the floods of sedition, and buslings of the nobility about regency in the weale publique, which molested his inward quiet. The slaughter of the Earles of Murrey and Linnox, protectors (added more fuell to the fire of disturbance), the Earl of Mar, a man exhibiting no

small lustre of equity and prudence in time of his regencie, was swallowed up by I know not what sodaine death : thereupon succeeded the nobles election of the Earl of Morton to be regent : the residue of the kings minority was obscured by quotidiā whirlwinds, storms, and tempests. These ominous passages of his fathers bitter funerall, mothers flight and banishment, the most execrable murder of his grandfather, no sooner had their exits, then the smiling face of heaven caused affaires to succeed more prosperously, so that in future, he did as it were compose mirrors of felicity and vertue, for his successors to behold themselves in ; such may we nominate the almost lavish expence and pompe he manifested in solemnizing his mothers funerall, causing the law revenge his grandfathers quarrell, the sword his fathers.

In the midst of domestick disconsolations, and the state publique perturbations, Morton being elected to steer the common-wealth, the transferring of which power, converted his thoughts to the republique, so that he by his authority summoned the nobility to hold a parliament at Edenborough, in which was enacted divers laws, profitable for the defence of the reformed religion, the kingdomes tranquility, and his majesties safety ; He likewise with the consent of the parliament, decreed that such as refused the reformed churches communion, unlesse (after warning exhibited) they repented of their superstitious madnesse, should be branded with the note of infamy, not worthy to bear office in the state, or be advanced to any dignity. Secondly, that such as were contumaciously averse to the protestant religion, should lose the priviledge of subjects. Thirdly, those whom the church did excommunicate, to be held rebels ; Lastly, all subjects should be bound to defend the received protestant profession with their persons and estates, against all such potentates as sided with

the counsell of Trent, to the destruction of Protestants. And there issued forth a proclamation in the kings name, to make all popish bishops uncapable of bearing any office or publike employment, whether they were of ecclesiasticall or civil jurisdiction, unlesse according to the solemne forme of abjuration, they renounced publiquely their erroneous tenents: but the auncient Protestant ministers who detested the dregs of popish superstition, were not to expect any diminution of honor or jurisdiction. And it was further declared, that forthwith all massemongers should be divested, and stript of their functions and ecclesiasticall revenues.

These things thus established, many who were solely addicted to the Romish religion, yet being seized on by fear of losing their estates, did not only sweare to the Protestant religion, but also confirmed the same by subscription. Let not here be matter of wonder administred, that the religion within so many precedent ages, had by the three runged ladder of mans authority, covetousnesse, and popish tyranny, attained to an incredible altitude, should now at once, by the hearing of mans threatnings and feare of loosing estates, fall flat to the ground.

But to make our progresse in the infancy of the churches reformation, certaine men were elected Ephori, or as others call them, Superintendents, who were invested with authority to ordain, chastise, or displace ministers: these men not differing from others either in habite or dignity, governed nationall, provinciall, and presbyteriall synods, according to the dictates of their owne will, every man being attentive to the opinion of Superintendents.

This institution had its rise from the downfall of the Romish, and restauration of the Protestant Religion, on which depends the kings splendor, the kingdomes security. The Regent Morton conceived the function of

prelates to be no lesse necessary then commodious, yet he desired that it might be enacted that orthodox bishops in Scotland should be regulated according to the Church of Englands rule, that such bishops as were blinded with the mists of popery might be ejected, wishing withall, those who were to enjoy the title and revenue of the bishops, should be men of quiet natures, and that they might freely give their votes in parliament, be abridged of exercising authority over other ministers, wholly abstaining from that part of their office: so great, so free was the power of synods, presbyters, and moderate presidents in that tempest.

Religion thus settled, and the princes safety so observed, Morton had time to take a view of civill and private affaires; he had a vigilancie, least any thing obnoxious to that obligation of Queen Elizabeths amity might entervene the education and conservation of his majestie: he conferred on Alexander Eskine, the Earle of Marr being as yet rather fit to be educated then to educate, he constituted George Beuchanan (a man ascended to no little height of fame by the scale of learning) his tutor, which with exquisite care and diligence in teaching him piety to God, and justice to men he performed.

These things being in agitation, James Hamilton, Duke of Castle-herauld, the Earles of Arguile and Huntly, Hume, Seton, Haris, auncient barons of the kingdome, with some others who moved in no inferiour sphære, seeing infancy adorned with majestie, and the regency of the state in the hands of a protector under a childs domination, begun to murmur against the Vice-royes government, and withstand him, by leaning to the French faction, least otherwise his authority might be corroborated: But to overturne a gouvernement established by parliament, was of more difficulty to effect, for the protector being by these

blasts and combinations awakened, became daily more cautelous, and fortified himselfe against such attempts by the forts of the citizens love, prudent deportment in governing, and renowne of his friends; yet hee would not bee adverse to any counsell, tending to tranquility, if such a happy star might appear in that horizon.

Much about this time Iohn Knox, very famous for being a temple incendiary, and an imitator of the Vandalls devastations, under the pretence of religion, ruins the monuments of our ancestors piety, suffering not so much as church bells or leads to scape his sacriligious raving hands, a beaken apt to have put the whole kingdome in a posture of war.

These things thus upon the stage, Morton extinguished the lustre of repute he had already lighted, and that he hoped in the future to kindle, by the obloquie of one infamous fact, which was thus: The Earles of Northumberland and Westmerland adjudging their case desperate at home, fled privately into Scotland, that so they might either by flight or private lives divert the currant of punishment; Charles Nevill Earle of Westmerland sojourned at the house of Carr Farnihurst, or Buckclough, untill fearing the English army under the conduct of the Earle of Sussex, he made his escape into Flanders, there spending the residue of his days in indigency. As for Thomas Piercy Earl of Northumberland (a man of auncient family) the Lady Fortune (whose will is her law to rule by) gave him the ignoble and forsaken woods of Harcley for habitation, and his comrades were the Grames, infamous for robberies, who had a greater eye to perpetrate wickednesse, then to keep their promise, they nefariously deliver this banished earl lurking in cottages, to Murrey the protector, who least hee should be thought to desert his office or trust, dreaded to deliver him to be swallowed up of his enemies.

But after that Morton being placed on the pinnacle of honour, falling either by the error of his minde, or longing after money, spontaneously delivered Northumberland (whom honour had made great, and to whom he stood engaged by the ties of demerit) into the hands of Henry Cary, Baron Hunsdon governour of Barwicke, for some reward promised; but Northumberland (a branch of that great stock of Piercies) not long after was lopped off with the fatall axe at Yorke: the fruit of so ungratefull wickednesse, the protector received in the *ultimum* of his life, as if God punished such a fact.

The knife of envy ere this had parted the kingdome into two unnaturall factions of son and mother, king, and captivated queene; in this dissention many of the nobility displaying the banner of publique good, strove to advance their owne honour and potency; England and France were not wanting in frequent missions to attract the opposites to accord, and lay downe their armes; but the French K. sent Monsieur Viriac embassadour into Scotland, to see in what condition the kingdome stood in, and to supplant peace, if it lay within the virge of his effecting, which part he exquisitely performed: for the vizer of his embassage permitted him not only to stand as spectator, but to act the fomenter of war against the viceroy. Queen Elizabeth on the other side perceiving the plot was as diligent to countermine him, which shee did by dispatching Henry Killegrew embassadour into Scotland, that he might do his ultimate devoir in resisting Viriac by cleaving to the Protestants.

The protector delighting more in the pleasant streames of peace, then in the bloody waters of war, endeavoured in a long oration made to the nobles, to induce to concord, conjuring them by their fidelity and allegiance to bury in oblivion all private injuries, so to eradicate the thoughts

of war, as that they should be had no more in remembrance, to remember the forgetting of all controversies and discords, nor try the last of refuges; for which prudent moderation, those who had not tasted of the bitter root of affliction, congratulated his endeavours, and desired God prosper him in this buisnesse. Killegrew the English embassadour gave sincere demonstrations of his desires to reduce the kingdome into the haven of tranquillity: but Monsieur Viriac the French orator, or rather the Guises embassadour, strives to launch her forth into the deepe of Civill broyles by his alluring the chiefes of Scotland to restore popery, and violently re-establish the Queen of Scots in her throne, assuring those of the French faction (if their resolutions hold firme) should be assured of aide ere long.

After this many conferences of composure were betwixt the ringleaders of either party, at last truce was taken, and Perth appointed the place of convening: the love of peace and quiet, and loathing of war, are principles which nature hath endued us with: the time of consultation was not to be till the tenth of February, and till that day of convening was come, all acts of hostility were to surcease, and so continuing till the treaty ended.

Neverthelesse William Kircade Lord of Grange, governour of Edenborough Castle, whose fiery genius made a discord in this sweete harmony of civill concord: the nobility of both parties desired him not to be so averse in so happy an opportunity for the commonalty, nor to set the state upon the rack of discord, under pretence of siding with either faction: but this wholsom counsell could not any wayes demoove him from his more desperate progresse: whether it were that hee was excited thereto by his confidence in that inexpugnable place, against which hee supposed neither force nor art could

so far prevaile as enter or demolish, it being provided with ammunition and victuall for a long siege. The Castle hath the advantage of an high rock inaccessible on every part, and fortified by a fen or lake on the side, and a moate which surrounds it. It may be likewise supposed his courage was sharpned by the whetstone of hope which he fixed on the French forces ready to come, whom he supposed would free him from all exigencies, in that he had sent his brother Iames Kircade not many dayes before into France, to make knowne their conditione, and implore them to send men and money; but how closely soever this crafty counsell was kept, yet it arrived at the regents eares, who knowing the Castle of Blacknesse, seated on the banks of Forth, to be the most safe and convenient receptacle for Kircade, covertly complies with Alexander Stuart, the governour thereof, who wanted deboist behaviour (though of the adverse party) and by faire promises, which were seconded with gifts, he drew him to serve his king, to stay Kircade, and seaze on the money at his returne, and the conclusion of this plot gave a just correspondency to the premisses, for Iames Kircad returning from France with some 1000 crowns of gold to elevate the spirits of the queenes party, sailed to Blacknesse, not having a thought of the governours deserting their party, since hee had not long before solemnly vowed never to renounce it: thus did he throw himself headlong into the snare, where he was caught, and the treasure seazed on; whereupon the governour posts to Edenbrough, that hee might acquaint the viceroy with the successe.

Now accurate Kircade knowing well that he was circumvented, and at the enemies disposall, corrupted his keepers and watch with those few crownes hee had reserved, so that by the sodaine change of fortunes wheele,

and souldiers perfidiousnesse who were on the watch of a prisoner, he was metamorphised into a president, the keyes and custody being delivered him, thus he repayed the fraudulent man in his owne coyne.

The sunne had not twice runne his course, ere Stuart, with his unarmed company, not harbouring the least suspicion, entered, and by the souldiers whom Kircade had suborned for the betraying, was presently cast into prison: where having a guard set over him, was kept in fetters: but the tediousnesse of imprisonment caused him study revenge, and opportunity of alienating his keepers, and the souldiers affection from Kircade, so that he might entangle his adversary in the same net which so lately caught him, he being dressed in the garbe of squalour and sorrow, made the indignity of his condition the subject of a dolefull story to fill some of the souldiers eares, entreating them by all those old tyes of souldiers fidelity, by those many hard-ships whereof he participated with them, to commiserate his case, and repaire the breach of trust made by them or their comrades, by effecting some noble exploit of trust; lastly, to wipe off by some officious performance, when opportunity might be their owne, those blots of disgrace injected upon that *quondam* governour, the very deformity of their so closely circumvented, and depressed governour, and the remembrance of his former dignity, caused the common souldiers melt with pittie and compassion, and in this nick of time, fortune presented a pat opportunity to the souldiers acceptance for innovation of their condition, and thus it happened: Kircade to demonstrate himselfe a loving husband, would with his mæniall servants accompany his wife, departing from him out of the castle; but he was no sooner forth, then hastily shot out by the combined souldiers, who brake open the prison doores, and caused a sequestration

passee twixt the fetters and Alexander Stuarts leggs, setting him gently at liberty. He (Fortune delighting to play the chamelions part) of a president became a prisoner, of a captive is become a captaine, and the castle (as if willing) to shew it selfe a changeling, to day it favoured this, yesterday the other party.

While frequent betrayings, peers revolting, and regents murders, infested the kingdome, the most eminent of either party, wearied with the sustentation of so long and grievous dissensions, upon the forementioned 10th of February, met at Perth, to consult about the reducing of the kingdome to its former quiet. The vice-roy, accompanied with others of the nobility of the king's party, appeared; for the queens party, there was present the Earle of Huntly, the queenes vicepresident for the north parts of Scotland, with the chiefe of the Hamiltons, and the rest whose affections were conglutinated to her, there it was concluded, by the interposition of Qu: Elizabeths power; After long debates had about the conjunction of king and queen in regency, that there should be a cessation from armes on both sides, and an act of perpetuall oblivion upon all offences committed, except the murdering of the king, Murrey, and Lenox, protectors: private wrongs were to be forgotten, least concord should be infringed, and private and publique injuries were to have their pardons, al mercenary souldiers to be disbanded, save foure companies which the regent was to keep on foote so long as the parliament might conceive any profit accruing thence to the kingdome; all should embrace the religion professed in Scotland, acknowledge the kings primacy and supremacy, as well in jurisdiction as authority: that whatsoever should bee enterprized after the publication thereof in the queens name, to be null and of no validity, whether publicuely or privately

acted. To fulfill these articles, both parties were bound by oath, delivering of hostages, and other pledges, so that civill dissensions grew sleepy, and peace was obtained by the protectors speciall vigilancy and care; untill that the Lord Grange (a man rather blowing tempests then commodious breath) both despising the king and Viceroyes authority, not desiring the security of his countrey, sought more for the opportunity of fomenting war, being fed with the maine hope of aid from France and Flanders.

For no sooner was the truce expired, but he thundered with a minacing kind of noyse upon the city of Edenduborough, infesting the citizens with continuall excursions, making their houses sacrifices, by throwing granadoes and scalding pitch thereon; he sent such thundring nuncios into the most famous streets in the city, as that scarce any passed without extreame danger of his life. Nor was the Edenburgians much short of him in rage, after they had once taken up armes in defence of their city; for being set downe before the castle, they cast up a slight worke, not ceasing night and day to raise forts in such convenient places as might hinder the Castillians excursions, so that their city was not so much exposed to the fury of the merciles fire, although their houses were shot thorow, yet they walk in more security: to conclude, they turn the edge of Granges violence and fury, they divert the waters course, that instead thereof, affliction might run into the castle; the diverting of which, and the mingling lime with the water in standing pools, caused many slight skirmishes: at the foot of the rock sweetly issued forth a fountaine of very pleasant water; to defend which, the besieged sallied out at a postern, erecting a bulwork that might scour their water, and such as were wont to go up and down for water, the besiegers on the

contrary strove to cut them off from it, thus no day passed wherein Mars did not display his bloody colours. A great slaughter there was of the common souldiers, and one captain, whose quarters was neare Cuthberts Church. Achison a commander, while hee in the night carelessly walking the round, was overtaken by a bullet, which summoned him and five more of the common sort to apeare at deaths court: the besieged threw granadoes, shot wild-fire, which lighting upon poore thatched cottages, burnt them, and not far from the west gate, many stately buildings with ware-houses full of rich merchandize run the same hazard.

The citizens were surrounded with feare and care, supposing the city but fuell for Grange's fire, nor did pendent danger or timidity so much affright them, the fire being always extinguished by the care of their servants; or did the daily terrors trouble them so much, as did the urgent waves of care torture the regents breasts, for though he had besieged the castle, yet there was a famine of engines offensive in his camp.

The protector (least he should spend his time to no purpose) sent divers convenient men to divert the governour from the queenes party, and to embrace peace, and to this end proffers him very reasonable conditions. While things were in a reasonable posture, these instructions being given, the men whom Morton had selected to treat, set forward to meet and treat with Petarow the Lord Grange's nephew, betwixt Leith and Edenborough, where they manifested the regents great desire to avoid effusion of blood, desiring withall that they would surrender themselves, bee obedient to the protector, acknowledg the kings authority. But these propositions had no other answer of the couragious young gallant, then an obstinate denyall and refusall, nor would he transact the negotiation

of peace; the treaty breaking off, both parties departed in great rage.

The Scots being trained up in the academy of Mars, (least through idlenes at home they should prove ill proficientes) travelled into Holland, Swethland, and France, there giving many demonstrations of valour, following Pallas close at the heeles.

But while Edenborough was the stage of warre, Mr. Iohn Knox, as if inspired by heaven, in a most eloquent sermon gives a prediction of the assaulting of the castle, which as it was a goodly act, so it should want no lesse successe, and that mad man Grange should come over the walls and rubbish in a rope to treat, which succeeded according to his words.

The French king sent Monsieur Crone to understand how affaires stood, who writ backe that Scotland and England were united by league, that his propositions of conjoyning the king and queen in government, or tolleration of the popish religion, would be null, besides it could not be effected without the high court of parliament, who had already removed her from the throne, and extirpated popery roote and branch, and that the viceroy with the consent of the councill, had sent the queene and Roman religion into perpetuall banishment.

Queene Mary (a lady of an undaunted spirit) hearing hereof, excites all princes to send aid, even of his holinesse himselfe, and she privately covenants with the Guises to set her at liberty.

ANNO DOMINI 1573.

Morton seeing the siege prolonged, the governours audacity, and the slow progresse in besieging, produced more detriment to the besiegers, then to the besieged;

withall considering that his small forces were not potent enough to enter for a place every way fortified, sent to implore of England men and ammunition, which was condiscended unto upon these conditions, that the viceroy should not make any composition with the besieged, without the queens consent, that he should not receive, protect, or succour any English fugitives, and if the castle should be surrendred, that whatever was in it should be free booty for the besiegers, save what was the kings utensalls or precious ornaments.

The protector being great with desire to obtaine the castle, grants all the propositions. Not long after, the English navy laden with cannon, engines of all sorts, powder and iron bullet, and other ammunition, rid at anchor in the haven of Leith neer Forth, where the sea stretcheth forth one of her armes to embrace the floods. Besides, William Drury, marshall of Barwick, marched into Scotland by land with 1500 foot, who declared her majesties of England sincere love and ardent affection to her neighbours of Scotland, and that they might give a candid manifestation thereof. This exployt was undertaken, the greatest part of which charge and trouble shee sustained her selfe, that they might restore them to their former freedome and peace: which ere they would not effect, their own freedome and peace should run the same hazard, all which shee hoped they would not forget to remember.

The English and Scots having joyned forces ere they mounted their canon, sought by all meanes possible to have the castle surrendred: but the canons of treaty not making any breach in their breasts, they begin furiously to assault the castle, so that 4 of the castle towers begin to tumble for fear: then moale like they undermined and raysed trenches upon the sharpe side of the hill. Since

nature had prohibited the surrounding it, Drury supplied whatever was deficient for opposing, so that no man might passe in or out of the castle. That performed, hee mounts 30 brasse pieces, with which he batters the walls for foure days together without any intermission, so that in fine Davids Tower receiving many wounds, yeelds it selfe captive to ruin, and with an hideous noyse layes its airy head on the ground, leaving the defendant naked to the enemies fury: the first day when as yet there was scarce hope left of resisting, while their bodies were not defatigated, they valiantly received the charge, and maintained the breach, sending ever and anon embassadours to death, or the chirurgions, to tell them that the messengers had shewed more of tumult then valour in entring the wals, art countermined art, and force was answered with force, having hitherto endured what cruelty could afflict. At last they begin to despaire of their strength, either in that the cannons sent such shours of lead (which watered their bodies with drops of blood), or that the rocke brake, or their houses fell, or in that the number of their slaine and wounded were many, or that Captain Trotter was fallen, who while hee lived made good the breach with his owne sword.

The English perceiving their courage to be queld, filling the ayre with their cryes, sets ladders to the lower walls halfe ruinated, getting over, some few resisting, and those few ill armed for resistance, being already conquered with grieve, were beaten down: The souldiers in the lower tower seeing themselves not able to resist the insulting English, retire into the upper, but no sooner there then assaulted with the distrust of their owne and the places debility; for they were driven into great straits by reason of the penury of water, which caused such debility of body, as they could not endure any more hard-

ship. All was resolved now to yeeld, a parley was desired, the next day truce was taken, Henry Ley an English man, and George Fleck a Scot, Morton's sisters son, were delivered as hostages. The Lord Grange, Robert Melvine, and Petarow climbing over the walls, for the gates were obstructed, (Knox his prophesie in this being accomplished) came to treat with Drury: Their demands were to enjoy life and security, but could obtaine nothing, save to yeeld themselves and all they had to the Queene of Englands mercy: In this pittifull plight and deplorable condition (seeing the laws of necessity must be obeyed) they yeeld themselves up to the conquerours pleasure, and the Queen of Englands mercy: the common souldiers laying down their arms, were safely dismissed. After the castle was surrendred, many considerable persons were taken prisoners: among others these were of speciall note; Alexander Hume, being the flower of his family, and in the flower of his strength; the Lord Grange, a man couragious and valiant; Secretary Matlain, renowned among strangers, and adored by such as knew him, for his valour, with John his brother, who afterwards was chancellour, whose youth was decked with singular vertue and excellency in arts, especially with the immitation of his brother; Petarow, one of great authority and estimation amongst those of his owne faction; Robert Melvine, whose accurate ingenuity could sustaine the most weighty affaires; besides Cockran and Mosney, two rich citizens of Edenborough; and the renowned Countesse of Arguile, the late wife of James the Fifth, who was the daughter of an harlot.

Thus skill and valour of the English in besieging, caused the castle and 200 souldiers to surrender themselves in the space of 33 dayes; as for Matlaine, hee lay long under the tyranny of the gout and crampe, which

ceased upon his whole body. Natures candle being come to a snuffe, which was extinct by the breaking in of that vast ocean of sorrow and sicknesse while hee was in prison at Leith, or else, he dyed voluntarily to avoid the enemies severity : he was a man whom nature had adorned with the accoutrements of accuratenesse and prudence, and would have exhibited the same, if Fortune (the over-swaier of humane counsells) had not delighted to make him like herself, blinde with publique calamities, but mortals are not cautelous enough to withstand Fortunes fury. It was reported that Matlain poisoned himselfe after the castles surrender : George Douglas, the regents brother, with a guard, was sent to receive the treasure, guns, and the kings utensels, the souldiers, according to the agreement, having the goods and treasure given them for pillage, which the citizens had sent thither as to a most safe treasury. Not many dayes after, Queen Elizabeths pleasure was exhibited and made known, the Lord Grange and his brother James were executed by the common hang-man in the market-place of Edenborough, where the people displayed his gallantry in its colours, relating how great and how many gulphs of dangers he had shut for the publique liberty, what attempts he had undertaken against the French and English, for the safety and honour of his countrey, when he was even ready to suffer death, no tongue suffered his former renown to be forgotten ; notwithstanding all this, the sad remembrance of their city burning, being fresh in their memorie, cryed so loud in their ears, as they sought revenge by seeing him suffer : Mosney and Cockran, both gold-smiths, took their journeys into another world from the gallows.

Queene Elizabeth obtaining of the protector that the lives and estates of Hume, Petarow, and Melvin, should

bee preserved with the rest, onely their persons should be imprisoned : by this act of clemency she became admired for mansuetude and mercy.

Thus the English seting a period to those disasters, they came to quiet, (coming thither by invitation of the protector, and compulsion of Grange his rashnesse) leaves Scotland in tranquility, and with the losse of a few men returned with their prize to Barwicke.

The raging stormes of civill war being overblown, the heate of killing, firing, and spoyling were allaid. And now Morton, to induce the bloody-minded and warriors to embrace peace, quiet, and humanity, with great diligence educated the noble young branches in the liberall sciences, that the publique safety and kingdomes tranquility might have firme foundation; he did not give any manifestation of grudge against the Hamiltons, who were in those days no lesse potent in power than allies, but rather labours to compose such differences as kept the nobility disunited; and to this end calls a parliament at Edenborough, in which, for the public good, he suppresseth divorces, adulteries, pillaging, murthers, rapine, burning, robbing, and luxurie, besides many acts he passed against cosenage in bargaining, and out of the rest selects a chiefe number (whom long experience had endued with knowledge fit for such undertakings) to consult about state affaires. Hee made all malignants to become aspen leaves, austerey punishing such as had contaminated their hands in the late kings blood, or were any wayes conscious thereof: he constituted Sir John Carmichell, a gallant spirit, warden of the marches, gave him an annuall stipend, and the command of so many souldiers as might prohibite those violaters of humane institutions, who casting off all obedience to the league, made incursions and wasted the borders of England: not

to expatiate, he brought forth many hopefull blossomes for future government, being of an honourable presence, to receive the popular applause, in that he trod in the steps of moderation, not satiating or thirsting after blood, but with the sword of justice cut away all corrupt matter where ever it was.

This weather was too faire to continue long, for seeing himselfe to be invested with command, hee lets loose the raines, riding after lust and covetousnesse, making incursions into the subjects coffers, and under the pretext of justice, makes the law denounce severity, that he might the sooner fill the jawes of his greedy avarice. This sodaine commutation exhibited as sodaine rumors, for Fame now began to blast, rather then blazen his name. He called the court officers to such a strict accoumpt, as that they did not without some misery performe : having exhausted their treasures, they were then to informe the judges selected for that purpose, of all that had eaten flesh in Lent, who were commanded to appear : and if they could not free themselves thereof by oath, the judges pronounced them guilty of the breach of the law, and inflicted punishment according to the statute, which the protector seldome or never remitted : but when he perceived the commonwealth impoverished, he supposed it safer to inhance privately the kings coine, then publiquely to gape after the citzens estates. And now being Lord of an ample fortune, he maintained his retinue with the dignity of moderation in food and apparel, converting both publique and private riches to honour and magnificence, erecting that palace of Dalkeith to his no small charge, adorning it with tapestry and incomparable pieces of art, so that its splendor almost soars to a majesticall statelinesse : he caused rich pieces of silver and gold to be coyned, which to this day is hoarded up in usurers cof-

fers : on the one side the gold bore King James the Sixts portraicture, with the inscription of *In utramque paratus* on the one side : on the other side was a lyon rampant, Mars in a double tressure counterflowred, being the royal arms of Scotland within this inscription, *Parcere subjectis, et debellare superbos* : The silver pieces bore two swords with Trajans motto, which hee together with the sword delivered to the major of the city.

Pro me, si mereor, si non, in me.

He was the first that brought the detriment of brazen coine to the commonwealth : for the Scots before this had nothing currant but gold and silver, which now was corrupted both at home and in the Netherlands by the merchants, who being slaves to their unjust gaine, transported the starling money into foraign parts.

These his exactions were observed by an ingenious foole of his, Patricke Bovy, who used ever and anon to rub his masters soares, as may candidly appeare by this subsequent story. It so fortuning that some importunate beggers beseeched the viceroy to relieve their poverty : which being over-heard of the foole, it was as earnestly begged to have these importunate fellows burned, which moved the regent extrémly, so that he told him he was an uncharitable man, not to shew mercy to those that so ardently sought it : hereupon the foole instantly replied, what and if ye commit these as fuell to the flames to day, ere the sun shall run his course to-morrow, you can make as many rich men beggers ; intimating thereby that his rapacity being conjoyned to covetousnesse, eate up the citizens fortunes.

But in conclusion, having reduced the kings coffers to a little purse, hee sets upon the clergie, purposing to make them a bit to stay his hungry stomack ; such bene-

fices as were vacant, the revenue being small, he bestowed upon any Protestant ministers : but those of a greater value were conditionally given to court preachers, that his clyents and favourites might have some annuall fruit of their labour ; his spurious brats were the enjoyers of rectories and other church benefices which were no lesse faire then profitable ; in this storme these were the barnes into which the spirituall mens harvests were gathered.

But be pleased to go retrograde with me in observing the churches ataxy even from the beginning, for it is worth your review. Upon the Protestants desire to Queen Mary for the sustentation of their ministers, seeing all the spiritualls were in the possessions of papists : shee assembled the high priests, the prelates, and such of the popish clergy as were of especiall note, admonishing rather then entreating them, because reliefe could be no otherwise obtained for the Protestant ministers to put to their assisting hands : shee was confident there was not any in that great convention who would ether refuse to relieve or excuse the ministers poverty, which shee desired might bee done willingly, in that the diminution of their fruits could not be done without injury. The issue of the meeting was a setting a part of the thirds of spiritualties, with which her majestie was to relieve the orthodox ministers, as if it were a meere donative ; but the conclusion seemed to either party a collusion. The popish faction grievously complained that their wings were clipped, the Protestants suppose themselves not at all sublevated by that affected munificence.

After this a remonstrance of the ministers stipends is drawn up to the protector Morton, which he seemes to take into serious consideration, promising to cut the pope-lings avarice, and with it all cause of strife, declaring that hee would not be deficient in any thing advantagious to

the church, and that every minister whose life and doctrine were inculpable, should be supplied with a competency of estate annually, if that the thirds might be granted his majestie : The clergie was induced by this pollicitation to subscribe to the compact, obliging them irrevocably to performance. The viceroy catching the fish he angled for, knowing he wanted ability to perform what was promised, hee supposed it the best way (as the case stood) to commit the cure of three or four parishes to one man, that out of the reliques of the thirds might arise a great treasure : this he conceived to be the best gaine those times would afford.

But the church (although in vaine) exclames that the covenant was infringed while hee made all fish that came to his net, the ministers were instant and urgent with the protector, declaring that to appoint ministers for every church, and more ample stipends according to the agreement for every minister, was a matter no lesse requisite then of absolute necessity : he with great reluctancy, after much debate, refers the businesse to the council-table, to whom the clergy exhibited their bill of complaint against the viceroy (men of prevalency in the state) declared their sence therein, but nothing was obtained of the viceroy save delays ; the grieve of this repulse stuck so fast in the clergies breasts, as that twixt them and the regent there was a cessation of friendship, which instigated them perpetually, and openly to chastise his libidinosity, dissect his avarice, and aggravate the matter by invectives : but all this winde would shak no corne, for their thundring words was so far from terrifying of him, as that hee did not so much as stop their mouths.

Much about this time (after a long perigrination) Andrew Melvine returnes to his native soyle (if my judgment fail me not) in the thre tongues, and other polite

learning, was not inferiour to many, so exquisite in the pulpit and lists, as the Andrepolitan divines could not goe equipage: and in Saint Andrews, both his doctrine and authority were more prevalent then any other mans, he being seasoned with the Genevian discipline, drew some young heads to embrace his opinions, of reforming the church of Scotland, according to the idea of Geneva, which he prosecuted with such vehemency, as that his spleene begun to rise at the proposall of any other discipline, then that which he prosecuted, not at all calling to minde, that the government of a city is different from the government of a kingdome. But he supposed that if this discipline should be established, he with some others of his associates, might steere the ship of the Church of Scotland as they pleased; to effect which, he inveighes against the office of bishops openly in the pulpit, defaming them so that they might be depressed, with what envy could inflict; hee professed that there was a parity in the ministry, and that ministers were not inferiour to bishops; and those tenets were no sooner broached then there were two sorts of men to drink it up; one was laicks, supposing this the direct way to obtain spiritualities into their own disposing; the other was clergy, who by the slip of ambition grew higher in the desire of honour; these men inflamed the already incited people by their hot disputes and state-medling sermons, which caused an unbridled and indomitable licentiousnesse of tumults; a great part of Scotland had their affections conglutinated to erect the Geneva discipline, and extirpate episcopall authority and dignity: these vapours arising caused a cruell tempest, which tossed the arke of the church. In this storme the arch-bishop of St. Andrewes and Glasgow laboured with a strong hand against Melvine, administering such things as that season required. Adamson

arch-bishop of St. Andrewes, made his ingenuity shoot poynt blank at the Geneva discipline, accurately confuting it in the pulpit, wounding Melvin, and his independentiall tribe even to the soule, by the sword of his preaching : but the dissensions after long exagitation flew as high as the vice-royes eares ; hee being a man without all controverſie, who knew to fiſh in ſuch moleſted puddles, was not much grieved at the clergies clashing, ſuppoſing that in the future all bills of complaints henceforth would ariſe from the clergy : ſo that he by blowing and fanning the fire of debate, rather forgeth deſtruction for them, then laboured to extinguiſh it ; when as it became him to have fought againſt theſe bold men by the dint of reaſon or chaſtiſements, not to have permitted their antagoniſts to have beene blemiſhed with bitter railings in the pulpits, and freely to divest them of all the plumes of honour and dignity in the convocation.

The orthodox party being afflicted by diuturnall moleſtations, made pittious complaints of the injuries and contumelies wherewith they were oppreſt, deſiring the protectors auxiliatory hand againſt the church diſturbers : he by this time being defatigated with conivency, labours to take up the quarrell, putting them in minde of the aſſemble at Leith, where hee exhorted them to follow peace amongſt themſelves, not to raiſe any uproares under the pretence of diſcipline, nor to innovate any thing in the reformed religion, ſo long as the king was in his minority : for the vice-roy was not ignorant of the animosity and violence of theſe diſciplinarian innovators : the nobility plots, and the clergies pleibeian ſpirits, determining ſo long as the leaſt ſpark of composing their diſſentions did but appeare, to endure all things ; but his patience and former connivency gave ſuch fuel to the flames of the zelots fire, as that neither riches, authority,

or counsell could extinguish; so that it had been farre better never to have given them a sword, then afterwards to have resisted them being so prevalent.

ANNO DOMINI 1574.

While these sparks of intestine dissensions were rather raked up in embers than dead: the papists, and such of the nobility as were blinded by French presents, consulted more like so many franticks then counsellours to seize upon the princes person, and so to carry him into France, and to disrobe the Vice-roy Morton of his authority: but the protector was not deficient in wit or prudence to divert those furious streames and imminent dangers; for as from the beginning he had protected the English party, so had he kept the French under his girdle; withall reposing his whole confidence, and the kingdomes safety in Queen Elizabeth, as in a sure refuge, desirous to sift out what opinion those who were about his majesties person had of him, retaining very harmlesse followers, who by their sugered and oratoricall expressions, even enchanted all tender eares.

Now lest a gap might be left open to ambition, and his enemies hatred, he was vigilant over the churches tranquillity, the cities safety, the kingdomes incolumnity, and his majesties honour, and when the poore could find no redresse in their miseries from the judges tribunals, he constituted others to heare their complaints. Great was the respect he exhibited to George Buchanan, one whom the muses had adorned with their influences, more than any of his contemporanians, whose fame was augmented, by the speciall care demonstrated in educating King James, with all politick learning, and wisdom: nor did his respects rest solely in Buchanan, but it extended it selfe to

every good tutor. But now you must behold the scene altered; for Morton heretofore intentive on publike affaires, now whether by human frailty or by the destiny of ruling became inflamed with lust and avarice, polluting the secret chambers of the pallace by the foule blast of adultery, and deflowring of virgins, thinking thus to wax strong in pleasure, became weake in body and authority: for hee was a frequenter of unseasonable riotings, baths, and such places which art or nature had made delicate: and pretending the insupportable ponderosity of the weale publike, he invents exquisite and nimble wayes of poling the commons, and seeing that there was not any subject for him to exercise his sword upon, he pretended to lay Barkleyes Wood equal with the ground, in that it was a receptacle of theeves; and when the earth called for weapons, into whose hand she may pay her tribute, hee called for all men who were able to beare armes to march after him against this great forrest, and all to be in readinesse at the sound of a trumpet: but there being a frustration of divers musterings, he gave over the expedition, disbanding such as were content to pay for their absence: but the rest continued in armes.

Read the Bishop of Orkney disposing his whole estate upon pious uses, and maintenance of students, was frustrate of his desire by the vice-roy, who made his testament null and of no validity: (as if hee had authority to dispose of mens fortunes) threatning to inflict punishment upon the executors, if they should endeavour to fulfill his will and testament: nor did he stay here, for in a most ravenous manner he invaded houses, lands, and treasure, confiscating the richest merchants estates, as if guilty of most hainous crimes, defrauding them of their most proper goods.

Nor did his rapacity onely catch flies, but he soared for

great fowles, such of the nobility as were descended from ancient progenitors, he obliterated with some blot or other of their ancestors, which hee had collected from the leaves of antiquity, exacting of them vast summes of money, which were as so many additions to enlarge his fortunes: but recollecting himselfe, supposing that the nobilities love and mutuall amity were materiall props to uphold his sliding power, he begun to foment enmity, jealousy, hatred, and injuries amongst them, that so matter of offence, (which consequently induceth punishment), might be administred. But although they were affronted by whole troops of contumelies, charged with multitudes of injuries; yet they deferred to seek revenge until opportunity was theirs, making temperance and wisdom their guides in this tempestuous night.

Lastly, this horse-leech exhausted so much treasure out of the veines of the body of Scotland, as his coffers could well containe, stretching himselfe forth to embrace covetousnesse, and avarice, and this was all under the pretence of publike service: which not onely enriched himselfe, but also his favourites patrimony: also he supposed that England might be within the line of his avarice; for he desired that some annuall stipend might be assigned to him, and those of his party; but Qu. Elizabeth was adverse to his desires, being seconded by her counsell; which denyall had the taste of an injury in Mortons pallet, so that hee laid it to heart.

ANNO DOMINI 1575.

Whilst domestick dissensions took a little rest, the vice-roy Morton begun to cast an eye upon the publike, fortifying castles, performing many good acts, according to the counsels desires, the beautifying of the kingdome

with inward and outward ornaments of market places, regall structures, pallaces, courts, finishing with majesticall magnificence his building at Dalkeith; moreover he subdued that part of Scotland which is adjacent to Ireland, and reducing the Æbudans to yeeld obedience to the Queen of England, he stops likewise all excursions into Ulster, admonishing the islanders to forbear all acts of hostility against her majesties subjects, or to intermeddle with the English government in Ireland.

After this he summoned the lawyers in Scotland to assemble, under the specious pretence, about the restriction of robbing on the borders; but the event was to confiscate mens estates, notwithstanding all other pretences: but the discovery augmented his hatred, and diminution of authority. Thus whilst the protector became villified for his avarice, a suddain accident happened, which administred cause of complaint to the English, and had well nigh been a leak to let in whole floods of warre into the state: which was thus. Sir John Carmichel, the valient governour of Lidsdale, Sir John Foster, governour of the middle borders; with the governour of Barwick, Francis Russell, eldest sonne of the Earle of Bedford, Sir George Heron, Cuthbert Collinwood, Henry Fennick; as also others of the gentry in Northumberland, meeting on Redsquire Hill in Ridsdale, on the confines of Scotland, where Sir John Foster, there commander, begun to expatiate himselfe in the detriments which were incident to the English by the Scots, as that their goods were made booties: and after complaints made, there was not restitution; he insisted likewise on the delivering of all fugitives. But Carmigell retorts his arguments on him, layes open the grievances which the English had brought into the borders, by disquieting them with plundering and spoyling. When these sharpe soares were in dress-

ing, (haughty spirits not brooking a haughty word) 'twixt chiding and striving arose a tumultuous hubbub amongst the borderers, who had encompassed the governours : in the dispute Carmichel was made captive, victory residing on the English brow ; so that they tooke that opportunity to pillage the Scots of such things as were brought thither for sale ; but while they gazed too much on plunder, and were hurried with temerity, the Scots surprised the victory : for they raising the countrey by their clamours, as they runne through townes and fields, gathered themselves into a body at Jedburgh ; from whence marching towards the English, they made fury, and the sword hew a way through the sides of their enemies, to regaine their prey : the number of the slaine on the English part were many, amongst the rest Sir George Heron, knight ; Carmichell espying the defeat, made his escape to the Scots, whom he encouraged to charge home the flying English, lest that they should make a safe and faire retreat. The Governour Foster, Francis Russell his sonne in law, Cuthbert Collinwood, Henry Fennicke, and divers others, perceiving an escape impossible, accepted of quarter, who were carried to the regent at Dalkeith : He received them with all courtesie, and after they had entred bond to appeare at a certain day in Scotland, he sent them home with a safe convoy.

But this disaster was no sooner arrived at the court by the wings of fame, being seconded by letters from the governours own hands, then the queens minde was lifted off the hinge of patience, and hurried away by the violence of anger ; nor did Carmichell's fact so much incense her, as the protectors ambition, or rather negligence, besides the Scots, whom shee had (next under God) reduced to their pristine liberty, dignity, and safe tranquility, should against all law or right in time of treaty fall upon

the English, and to lead away in a triumphing manner Sir John Foster, with that hopefull and illustrious noble youth Francis Russell, who sought onely to escape out of deaths jawes ; Nay, after all this, to the contumely of the English nation, force a subscription, and delivery of pledges for their returne, these were as so many goads to drive forward her already incensed minde : the transaction hereof put both the borders in a posture of warre, which were ready almost to joyne battle : but Morton shewed his experimentall prudence in accusing the English heady governour, who caused the multitude run into this offence, in beseeching her majestie not to condemn him ere she heard him answer for himselfe, desiring her highnesse remember his ancient demerits, and what great fires of trouble would have their being from this spark of dissention, and how it might stand with her majesties honour to raise a warre, which must be maintained with the blood of many of her loyall subjects, and all for the offence of a few : but if shee would not lend an eare to his humble desires, then lastly let her but looke upon the common cause, which begs a defence of the peace betwixt the two kingdomes, lest that Scotland having a deficiency of Englands ayd, might be necessitated to call in the French, that the hand of her benevolence towards Scotland might not be contracted by reason of this sodaine tumult ; he likewise declared that there was not any thing done by public consent, but 'twas the fact of the commanders and souldiers as imprudence or fury had precipitated, after the receipt of a dammage : besides it should be very perspicuous to her majestie, that ere time was grown much elder, he would doe such good offices for her state, as might countervaille those inconveniences already happened ; and as for questioning the governour in Scotland, he answered, that the president in Henry the

7ths reign was his apology: for when expiation of Sir Robert Carr that noble knight and governour of the Middleborders death was sought after, it was concluded that there should be a meeting held in Scotland, where the governours had power to enquire after all misdemeanours, plundering, pillaging, and spoyling, and that to be performed without any dram of hatred or envy. But the producing of such a hoary headed instance, rather stimulated then repressed the queens anger; for she supposed that this act of prescribing a place of convening, was a staine cast upon her honour, and that it rather flowed from the regents arrogancy of minde then otherwise; and to remedy these injuries, she askes advice of the councell-table which way shee should steare her course: some aggravates the complaints more then the rest, but all make such cruell and ingratefull indignities as were done to her majesties faithfull subjects by the Scots, the subject of their exclamations; others again insisted upon the regents haughtinesse in deciding the controversie in Scotland, but all of them concluded, that so sodaine a tumult (not worthy the mentioning) was to slight a cause for wageing war. The queen being overcome by the authority of such reasons tending to peace, as her counsell exhibited, likewise perceiving that a great storm might fall upon Brittain arising from these fogs of dissention, shee remitted the crime, and was reconciled, only requiring that Carmichell might bee sent into England, according to the articles before agreed upon. This, though not without a certaine reluctancy of grieve, yet by a necessary compulsion was condescended unto. The viceroy seeing hopes of quiet were not within a kenning by any other ways then condiscention, went to the boundrod in the confines of Scotland to the queenes substitute the Ea: of Huntington, where in most ample manner declaring the

tumults great crime, freeing the state from any such act, and denying that the league made betwixt the two kingdoms did oblige him to deliver up Carmichel, notwithstanding lest he should be thought author of effusiō of so much blood, and raising so great troubles, he would deliver him according as the privy-councell had advised, lest hee of himselfe might do any thing prejudiciall to the state. Carmichell was guarded to Yorke, where he rather tasted the entertainment of a guest then of a prisoner, being afterwards dismissed with large rewards, and his return brought a return of his former honours, with an addition of regency over the whole marshes; the re-investure caused him with a vigilant eye to overlooke the confines, rewarding all freebooters and peace-disturbers with an halter for their labour, the rest being terrified by the punishing of offenders, left their trade of robbing, stealing, and theiving. The English entirely affected the viceroy for restraining limitanean robbers.

In this yeare the preciscians forgetting their ministeriall modesty, raging because no redresse was had about their stipends, were so presumptuous as to utter what ever their fancy dictated, or act what they adjudged convenient, but the regents remembrance of the treaty at Leith, which was that there should not be any innovation in religion, the king being in his minority, stopt their mouths.

In this yeare died James Hamilton, Earl of Arran, and duke of Castle-herauld in Poitier, a prince descended of the royall line, grandchild to James the second of Scotland, after the death of James the 5th, which was in the vigor of his age, and Mary his daughter succeeding him in his throne, had for her protector, this James who was declared to bee heire apparant to the crown, a man he was of a milde and tractable disposition, who was ready to embrace tranquility and avoid trouble, if that turbulent

spirits and fawning friends had not dimov'd his mind from its naturall hinges, who more regarding their owne ambition then his honour, drew him from his retyred life to undergoe the publique government after his transvection of Mary Qu. of Scots into France, there to be espoused to the Dolphine, where he was created duke of Castleherault, and captain over a troop of horse, armed cap-a-pee; but after he had laid down the scepter of his authority he tooke, was reinvested with his former nature, being far removed from courtly ambition: he was every way happy, so that hee began to doate on the sweete running streams of Glott, and peaceably passing over the remainder of his dayes in the company of his friends and favourites at his owne house: but the boysterous kingdoms disturbing blasts would not suffer him to enjoy his rest and quiet, for he that was of unblameable repute, of the royall blood, and renowned ancestors, as much as in him lay defended the life and fame of Queen Mary against her rebelling nobles: although George Buchanan the most renowned writer of Scottish affairs (whether his instigations were from his owne malice or others I know not) interpreted this his milde disposition in a contrary sense, upbraiding him with imbecillity and sloth. From this root proceeded foure branches male, James Earl of Arran, John, Claud, and David, whereof three (being infected with an hereditary disease derived from their mother) became frantick, John, adorned with mildnesse and munificence, left behind him a young twig, which excelled in inward and outward habiliments. Claud being the staffe and hope of his familie, ere that madnesse had seized on him, was fruitfull in the production of many tender branches.

ANNO DOMINI 1576.

The angry commons and incensed nobilities fulminations, nothing terrified the hated vice-roy from his money-getting way, but that he will make the receivers be accountant to a boddell for the customes: his avarice was not locked up in the exchequer, or revenues; for setting the citizens affections to sale; and trampling upon his owne fame, he caused intermission of commerce by reason of his immoderate exactions, and perpetuall troubles. But lest hee might appeare secure, he set his thoughts on the publike, expelling the Grames beyond the river Eske, and brought into subjection other brambles which cumbered the kingdome; as for such border-robbers which stole onely to satisfie nature with necessities, or such as were fostered up in idlenesse and sloath, being nourished by the hopes of plunder, he labours to reduce those by the manuall trades of husbandry, or other imployments: and in all parts of the kingdome inflicted punishment upon offenders, restraining others from the like misdemeanours by the magnitude of punishment; he placed garrisons on the marches for the restraint of incursions, which the borderers made, and robbing of travellers; he placed likewise garrisons on the frontiers next England, for the restraint of any sudden commotion: constituting Archibald Douglas Earle of Angus, the top branch of that family, (whose youth was condecorated by the sweetnesse of his genius) governour over the marches, who lest hee should be branded with remisseness, marched straight way to Dumfreis, hindering the Annandailes incursions, compelling the ring-leaders to sweare obedience and fidelity after that they had delivered pledges, he received them into favour, so that he settled peace, and managed the rest by

delicates while he returned to the protector: the long tract of secure peace had so mollified the turbulent and disquiet spirits, as that they either betooke themselves to execute civill affaires, or feast themselves with the banquet of peace.

Whilst these things were in agitation, his bosome friends, and the Earle of Angus, whom modest ingenuity and innate comity adorned, denounced apparent ruine, heavens vengeance, and ingruent dangers to the regent, unlesse he would exonerate the communalty and nobility of those insupportable exactions, which would bee an unspeakable comfort to all, whose continuance would be cause of civill warre: but he being hitherto dandled in fortunes lap, madly neglected their desire, answering the nobility with envy, the commons with contradiction, seeming not to feare the moon-like face of variable fortune, who never gives kingdoms of felicity, without empires of envy. Morton whom power, wealth, and honour had made sublime, yet was set out as a white for malice to shoot her arrowes at, by the inconstancy of fortune, whose recreation it is to tumble the highest stones lowest: or by his owne negligence who had metamorphosed a moderate government into pride, and avarice; every mans mouth now is expanded in defamations, as against one who had practised unlawfull pleasures, fornication, adultery, nay in one word to say all, all kinde of wickednesse: his lust brought forth the childe of covetousnesse, which gaped, and with an ardent longing after the citizens estates, he called an assembly of lawyers, which rather had an eye to the greatness of the fee, then the goodnesse of the cause, so that you might have heard more men condolling for the extraction of their estates, then of their blood. I will not commemorate the many exactions of money, which were imposed by the rigour of law, the more prudent were

alwayes against such gaine, because they produced hatred ; but whatsoever fame may prattle, 'tis evident as the sunne in his length, that he was more servile to his avarice then anger, that the most rich were his prey, that his judgement was more directed by the heapes of gold, then heinousnesse of delinquents crimes ; that the least offences many times bore the greatest punishments ; that he faithfully observed the league with England ; that hee caused money of the greatest value to be coyned ; that hee adjudged 'twixt opposites with all equity, and that hee honoured justice and piety : those things he performed for the publike good ; other things were acted as private malice dictated, which made demurres in his magnificent performances : his eyes sparkled with anger against the whole race of Hamiltons, whether innocent, or nocent, besides that hereditary hatred they bore to the Douglasses, he dreaded them as fatall enemies to him, according to the warning given him by an old propheticall rhyme, admonishing him to take heed of the Earle of Arran, which dignity long continued in the flourishing family of the Hamiltons ; but he supposed that danger was privately denounced by the Hamiltons, the major part whereof he banished, who stepped aside into England ; but his humane machinations would not divert the punishment so divinely revealed, for he being by James Stuart Earle of Arran accused of high treason, was beheaded, as shall be apparent in the sequell : he summoned Calen Cambell, of the noble family of Arguile, a man of a sharp wit, to appear on such a day ; upon which he not appearing, adjudged him to be proclaimed rebell : Arguile affirmed the judgement was illegall, since neither the place or day appointed stood with his safety in appearing, neither did it appertaine to the vice-roy to adjudge of such matters : this incited Arguile to let loose the reines of his anger,

supposing he had now got opportunity to suppress the regents pernicious and intollerable power. He therefore, with the Earles of Atholl and Montrosse, who were of a combined society, accompanied with a great retinue, went unto the king at Sterlin, where finding him with a small number of attendants, they drew up a remonstrance of such grievances as the vice-roy had imposed, to the diminution of the kings power, painting them forth in contumelious colours ; they were seconded by such friends, and fit instruments as were then resident at court, few of Mortons favourites were present, nor those who were present could excuse such hainous criminations and blots as had been objected : all rather dissimulating his vertues, commemorating his delayes, and iniquities, his multitudes of exquisite delapidating arts, and his defatigating the countrey by taxes ; but the more prudent nobility perswaded them not to disturb the kingdome by taking up armes, since such things might be redressed more conveniently by treaty. But Arguile would not cease to inculcate, and that with great livour and malignity Morton's accusations, for waxing proud by reason of the trust he was invested in. The king with a child's modesty answered, that neither hee nor his counsell could judge of a cause, until they had heard the matter agitated ; and to that end he dispatcheth letters 'twixt ambiguous feare and anger unto Morton, that he should with all speed repaire to the court, there to answer such things as should be objected against him concerning the managing of the kingdom's affaires. Morton considering that there was no safety in going alone, did therefore a long while protract his appearance by various delayes, calling his friends to counsell, which was the best way for him to steere his course ; divers were their opinions, according to the diversities of his favourites ingenuity : some, as if feare had taught

them language, desiring him to have respect unto his owne security, and resign his regency, which he could not long retaine : others againe, seeing the dissention 'twixt him and Arguile was civill, that it might be by some reasonable conditions accorded, which if it could be effected, they proposed it as a more safe way : this opinion was generally received of them ; as that moderate men were imployed to make up the breach 'twixt the vice-roy and the earle ; they importunately importuned Arguile to desist from further accusing, and to betake himselfe to his former friendship, but he was deaf on that eare, unless that Morton would voluntarily resigne up the regency ; the protector perceiving the hatred of Arguile to be inexpiable, and that the matter was not to be transacted by friends, he seperates himselfe from his enemies power, pondering with himselfe how great a fall it was to have a cadency from majesticall magistracy, to live a private life.

In this boysterous tempest the preciscians, whose suite was alwaies after innovation, knowing that the vice-royes authority was daily villified, they publicly anatomized his words, acts, and counsells. He commanded the Archbishops of Glascow and St. Andrews not to shew obedience to the synods decretalls : against which command the whole body of the clergy (as I may so speake) bent their forces, exagitating in the pulpit his avarice, luxury, and lust, which were very delightfull to the auditors eares : hence arise an alienation of the commons and nobles affections from him, who had administered cause of offence to many of them.

The men that stood up in his defence, were only the Ea: of Angus (who was allyed to him by blood) the most renowned of the Douglasses, and Carmichell with his armed troops, who exhorted the protector valiantly to subdue the commons to his authority, for the

establishing of religion, preservation of his dignity, and reteining of his posterity: thus Carmichell seemed to foment war, detesting in most opprobrious manner the pride and arrogancy of Arguile, as the sole disturber of the publike tranquillity, unlesse Morton would divest himselfe of that most envied title of viceroy.

But the protector could not condescend to Carmichell in this, least that any cause of a war might be administred, telling him that he reposed more confidence in his innocency than in magistracy, to reverberate the poyson'd darts of his accusators: and withal said, how that it even pierced his reines to heare that his magistracy and authority was contaminated by the tongues of men so prevalent in the pulpit and convention, seeing he had exhibited himselfe a most strong defender of religion and ecclesiastical order, that it was his whole endeavour to establish religion in that forme which the primitive times had used, to elevate men as their learning and piety required, to have the word of God sincerely taught by able men, to cause unity flourish in the church: but these disturbances threw all off the hinges in Scotland.

ANNO DOMINI 1577.

King James being defatigated by the quotidian complaints and supplications of Arguile (yet lest he might be thought to enterprize the least matter without the nobles advice, or which had not presidence) called a parliament, summoning the Peers to appeare at Sterlin upon the 10th of March, where he proposed the injuries and complaints of Arguile to be examined: but the viceroy in that he had not potency to swim against the streame of his enemies faction, determined to be absent both from parliament and city, that so the state might not be molested,

nor this meeting produce tumults, and to this purpose sent Archibald Douglas Ea: of Angus, John Glame chancellour, William Ruthen treasurer, and John Harris barron, with instructions to demolish such structures of criminations as his enemies had erected.

Those of the more prudent clasis bent their whole endeavours to reduce the factions, to embrace concord, and conserve the viceroys dignity; the high flown disposition and fierce hope of Arguile, could not descend to the matter propounded, so that the way of treaty could not reconcile so potent antagonists.

Arguile in a full house of lords and commons, commemorates the protectors unpresided decree against him, appealing therein to his majestie and nobles, desiring them to divest Morton of his office, proceed against him as a publique disturber, and cause of all these distractions.

He no sooner had sate down, then Angus, whom indignation had incensed, prostrating himselfe at the kings feete, humbly desired his majestie to give him leave for speaking in the defence of the absent protector: here-upon his majestie conferred with the state, commanded him answer what he could; he then undantedly complained, that Morton (a man every way deserving of the weale publique) was opposed by an army of calumnies, which speak in no other language than untruths and envy; next hee exposed to their view, how much of danger was eminent if Arguil's haughty contumacy went scotfree, who had so often contemned his majestie and the regents authority, who was either ringleader or confederate in many civil commotions, in those parts of Scotland adjacent to Ireland: he likewise requested the honourable houses not to be too credulous in any matter against the upright innocent protector, nor yet suffer defamations,

or any unjust criminations which maligning spirits might produce to his harm, but rather counterballance them with those his many and inestimable demerits (whereof they all could attest) for which the commonwealth stood engaged to him.

The deprecators and nobility of the adverse party were more prevalent with the king, then the objected criminations; amongst other things, it was voted to have him deposed: hereupon the Chancellour Glaymes desires the sufferages of all the house, and in fine, he declares that by vote Morton was to relinquish both magistracy and jurisdiction: thus the fortune of one houre overturned the felicity of many yeares. After this the nobility then present (lest by procrastinations new uproars might arise) desired his majestie to write to Morton how that he might be as advantagious now to his own security, publique tranquillity, and the nobilities request as heretofore, when he was invested with full jurisdiction and regency, dispatching the Chancellor Glaymes, the Treasurer Ruthen, and the Lord Harris, to the regent, for the obtaining a voluntary resignation of his protectorship, which might appease the emulators fury, who could not brook the altitude of his potency; and upon his abdication of regency, the king promised to discharge him of all accounts concerning the protectorship: the alternate letters of his majestie and the viceroy are extant.

Morton expending his own potency, and the power of ingruent fortune, fearing lest an addition of contumely should be incident with the amission of his estate, to the no lesse envied then laborious title of regent, desiring to spend his hoary age in private security and quiet, having got his *quietus est* of so well a governed commonwealth, the publique faith being by his majesty interposed for security, which he wold confirm at his arrivall at 21

yeares of age : He delivers up his regency in the presence of Glayme, Ruthen, and Harrais, counsellours, withall delivering the crown, sceptre, and the other regall vestments, to the Earl of Angus, with command of a presentation thereof to his majesties own hands, which was performed in a great convention of the nobles, who with an univocall cry professed his fidelity, and being authorized by Morton, and the rest of the nobility, invested his majestie therewith, who having not yet attained to the years of youth in this turbulent and miserable season, took upon him to sway the scepter, proclaiming that the solemnity of his coronation should be celebrated at Edenburgh, which was most welcome news to the people, and joy to the whole state : In this concourse Morton, by his pleasant smiles, filled the Edenburgians hearts with ineffable joy, protesting that he did not relinquish his authority, which was conferred by act of parliament, for any imbecillity of minde, or his adversaries potency, but he spontaneously had delivered it up with all fidelity, and obsequiousnesse, for the publike quiet : after his resignation, 500 gentlemen, with a multitude of others, guarded him home, who extolled his care of the publike good ; thus Mortons authority was extinct by the overpowering hand of his adversaries.

The nobles assembling at court, do institute trimes-triall counsellours, who were to propose to the counsell-table whatsoever his majesty was to negotiate, and these men were to be elected by the parliament, alwayes to be ready at Court to direct and protect his majestie in all consultations and authority, for the king did not do any thing either publike or private, but such things as these assistant nobles, who as tutors, should approve of ; such as were chosen enter upon their office at Sterlin, and client-wise they execute their quotidian offices, being proba-

tioners of the young kings behaviour, indoctrinating him how hee ought to demonstrate himselfe a prince and patriot to his country; the three months of their function being at an exit, others of the nobility, whom prudence and vertue had given supremacy over the rest, were constituted guardians, with the like authority as was granted to the former.

In the interim Morton, devoid of dignity, began to wallow in the myre of pleasure, sometimes reposing himselfe at Dalkeith, other whiles enjoying such delights as the banks of Bodotry or Fife produced, where he was accompanied with young spirits of noble extract, over whose nonage he had constituted guardians.

The above mentioned commissioners were again sent unto Morton, who had the fruition of a more tranquill and solitary living in his retirement at Dalkeith, where they declared his majesties and councells pleasure to him, not once dreaming thereof, that he should deliver up the Castle of Edenbrough, with all the appurtenances which he had received, and also the stamps for the coynage of money; he upon the hearing re-delivered the stamps: in the businesse of delivering the castle, he was backward; the delegates no sooner perceived Morton's procrastinations, then they declared that the place was not for tergiversations against princes, withall desiring him to beware of anger and impetuosity, and to cast his anchor of hope rather in the equity of his cause then in armes.

But the commissioners receiving no answer correspondent to their desires, departed, commanding the Edenburgians to do their endeavour in preserving the city from detriment, in looking to their own and childrens safeties; hereupon the citizens set a most strict guard with a prohibition of publike and private reliefe to be

allowed for the garrison souldiers. Hence issued a greater flood of division twixt the castillians and citizens then before ; this grew to a tumult, in which were slain some few of either side, but many wounded, because the uproar was without any leaders : at that time it so fortunately hapned that George Douglas was both governour of the castle and provost of the city, so that he with the four bailiffs at length appeased the people for that time, untill the memory of the slaughtered was a whetstone to set a sharpe edge upon the Edenburgians, so that they surrounded the castle.

The state being put into this turbulent posture, Andrew Earle of Rothese, Ruthen treasurer, and the Lord Harris, were sent with instructions to Morton from the king and councell, to admonish him to relinquish his pertinacy, and that his too much confidence reposed in one castle should not incite him to runne the hazard of a dubious and unnecessary war, which might cause the common peoples affections to be estranged, and their hearts ebulliate envy against him ; whereupon he consults with some of his friends about the delivering up of the castle : but the commissioners returning to Sterlin, related to his majesty what had beene incident.

Much about this time David Lindsey Ea: of Crawford and John Leon Earle of Glaymes, chancellor, (men whose birth made them move in an high sphære) were dissonants, not consonants : the discord arised from a controversie about their bounds, and fostered by envy and a bitter emulation twixt their followers, insomuch that they were at deadly feud. Glaymes for his paciferous wayes, mercifull judicature in the civil law, prudency and moderation, was held in great repute ; the other being nervous by his strong affinities of noble descent, and great atchievements, his elegance of behaviour, magnificence, and riches, ad-

vanced him to the title of Craford; but as his life was iniquated with luxurie, so Glayms his dayes were adorned with many, and noble honours, being a pattern of gravity and dignity to others. It so fortun'd that an unhappy altercation was incident at Sterlin twixt their followers, which came to that height that a hubbub was made, in which Glaymes was slaine by a bullet: He no sooner was dead then the dignity of chancellor was translated upon Athol, one as he succeeded in place so according to the common account in vertue and prudence; the atrocity of Glaymes death, excited the mindes of most well minded men: but above the rest Thomas Leon was a most eager young gallant to revenge his uncles death, over whom was constituted a tutor, who strove to make fire and sword avenge his and his families injuries, making many devastations into the Lindseys countrey, nor lesse bitter was the endeavours by the adverse party.

These depopulations arriving at court, caused the king by the authority of his councill to dismisse delegates, which might declare a cessation from further acts of hostility so long as the matter might be decided by law: in conclusion, Craford being apprehended was cast into prison for the death of Glayms; yet by the earnest and ardent desires of the nobility, not long after was safely dismissed; as he returned through Angus, the inhabitants congratulated his freedome: this was like a new fuell to inflame Glayms tutor unto so vehement anger, as that Craford all his life was glad to stand in a souldiers posture.

The deposing of Morton exalted the precisian hopes, in erecting the Genevian discipline, and diruating the episcopall wealth, so that pastors, deanes, and superintendents should rule; these mens endeavours had been frustraneous by the procrastinations and delayes of the viceroy, while

the king was under his protection. Upon this a synod was held, wherein the cherishing of faction was more agitated to the prejudice of his royalle majestie, then matters of divine worship: there the ministers decreed that the regency of ecclesiasticall affaires should be managed by superintendents, declaring that bishops ought only to take care of one church, not execute ecclesiasticall jurisdiction, relinquish episcopacy, and omit the dispensation of divine duties.

The king by the interposition of his counsellis authority, withstood the synods decree, by revokeing the businesse to his own breast.

In the conflict about the prelaticall jurisdiction, the arch-bishop of Saint Andrews was the valiant champion to defend their cause and dignity, beseeching with more than fiery zeale, that the dignity whose institution was divine, whose power for so many ages together had stood inviolated in the church, might not now suffer shipwrack by this precise party.

But the adverse cause had for their captaine Andrew Melvin, a man famous for divinity; yet give me leave to say his precipitate minde and anger overswayed his prudence: he vindicated an equality in the ministeriall function, and liberty in the church, admonishing the bishops to be of humble and meeke spirits, neglect riches, not to follow the streame of the times, hungring after wealth and power, nor let pride or arrogancy domineer: for religion and the true worship of God would bee shipwrackt unlesse men tooke downe their top-sailes of pride, insolency, arrogancy, unlesse they would cast overboard their luggage of riches, power, and honours; remembring that naked they came into the world. But his majesty could not away with Melvins proceedings, because he withstood the prelaticall dignity, and arrogantly endeavoured to pluck the

plumes of the churches ancient authority, seeking to erect a statue of honour from the ruines of the bishops disgrace.

Thus sick and ill disposed was the churches estate, and although the precisians were prevalent in number, yet there was not wanting nobles who stood as pillars to uphold episcopacy : the king having communicated the businesse to his councill, and hearing their determinations, made answer to the antiepiscope men, that he would himselfe governe the fainting church ; that they ought to infuse and instill piety and subjection into the peoples hearts, abstaine from innovating any thing, to follow peace and concord, reverence bishops, and not be authors of dissention in these tempestuous dayes ; this answer being given, there was not any to whom it was not conspicuous that the authority of episcopacie would rather be augmented then diminished whilst his majesty was at under age.

Thus the matter was crushed by a hand of moderation for the present, so that no other remedy was to bee had but patience ; when all hopes of reducing the clergy to accord was relinquished, it seemed good to the king and his most renowned nobles to declare their determinations about these present distractions, and admonish the clergy not to make any further progresse in the division : the episcopall party answered, that they were ready to submit to his majesties command, but their antagonists were altogether refractory, continually after in a furious manner insulting over the bishops in their pulpits, as if they arrogantly more eyed their own commodity and profits then their sheeps safety : an arrogant act of ministers : for what can be more arrogant then for an ordinary clergyman to teach the bishops in matters of religion.

Thus you see many and vehement were the contentions

'twixt Melvin and the Arch-bishop of St. Andrews; the arch-bishop answered Melvin (who contumaciously and haughtily railed against bishops in the open schooles) with such an ex tempore eloquence, fervency, and gravity, defending the honour and dignity of prelates, as that hee easily attained the applause: Melvin after this neither would, neither was able to encounter with the arch-bishop in publike, in that he saw himselfe overcome by eloquence, but strived to contaminate his life by a satyricall epigramatizing, stirring up the peoples hatred against him, omitting nothing which might any ways diruate the bishops authority. This bitter way of preaching, excited the tempest to that boysterousnesse, as the church of Scotland was almost overwhelmed in the kings minority; for it laid a gap open for all dissensions to enter in.

ANNO DOMINI 1578.

George Duglas, base brother to the Earle of Morton, being denudated of all aid which might manage the Castle of Edenburgh, knowing likewise that there was an irreconcilable hatred fostred in the Edenburgians against him, he begun to feare least that the sight of the garrison souldiers should rake up the coals of revenge in the citizens hearts, and cause them burne to the height of a plebeian commotion, to avoid which he dismissed his men by a devious posterne; after that delivering up the castle, with the ammunitiō, furniture, pearles, jewels, and robes unto Alexander Erskin of Gogaran, whom the king (in that he saw modesty, honesty, and fortitude advanced in his soul) made to be lieutenant of the same; he both for his owne memory, and others satisfaction, took an inventory of such things as were left, in the presence of

Ruthen, treasurer, the Lord Lindsey, and Alexander Hay publique notary.

The government of the state being a burthen too sad for the kings tender shoulders, caused a convention of the nobles to be summoned, to consult about the administratiō of the kingdoms affaires, which was put into the hands of the most renowned, the Earls of Arguile, Atholl, Montrosse, Catnesse, the Lord Lindsey and Harris; to whom were adjoyned an equall number of the most eminent clergy, and men of especiall note about the court, Ruthen lord treasurer, the Abbot of Dumferlein, secretary, George Buchanan, keeper of the privy seal, Murrey of Tilliberdine comptrouler of the kings house, James Magill master of the rolles; and they were to continue in their places untill his majesty arrived at maturity of age: these men as skilfull pilots steered with such art the commonwealth, as that for a while matters succeeded with more serenity: their eares were open to hear the complaints of the poore, whose faces were grinded by the tyrannous oppression of the mighty, and under their wings they shrouded themselves: many other lawes were made as pillars to confirme the state of the kingdome, amongst the rest, whatsoever grants, charters, letters, patents, immunities issued from his majesty, not having approbation of six of his counsell, and the subscription of the lord chancellour, were to bee of no validity.

In these tempestuous blasts appeared that preheminent vigilancy and industrie, which Atholl lord chancellor had over the weale publique; the execution of the lawes were his exercitations, his princes safety, created him watchfull; and he gave many demonstrations of an egregious and faithfull counsellour; and that the rather because the Earle of Morton, who having eased his shoulders of the burden of the kingdoms affaires, not swimming against

the streames of envy and fortune betook him to his retirement at Dalkeith, where hee disburdened his body from labour, his minde from perturbation, being no wayes molested by any court ambition, affirming that the administration of the state matters, and domination over terrene businesses was an atlantian imposition ; and these were no clandestine speeches : yet the sting of his injuries still yeelded so much purulant matter, as that his machinations were privately to foment and foster suspicions amongst those of noble extraction, making their divisions his gain ; and to accomplish his ends, he encounters with that thrice noble and famous young gallant John Earle of Marr, with no superficiall craft ; for hee told him that his unckle Alexander Erskin, (who was growne great by the additions of fortune, and the princes education) did exclude him from all hope of honour, so that it stood him in hand to be no more a dor-mouse, but as the top branch of that noble family, to awaken, lest these priviledges purchased by his ancestors hands should be deposited in his unckle, a thing inconsistant with his felicity : the words of Morton, who for his singular prudency was esteemed both by the commonalty, nobility, and clergy an oracle, were prevalent over the novice spirits of this young nobleman, (who had a genius ingenuous, above the ordinary levell) so that he became incensed against his unckle Alexander Erskin, because he had without any respect shewed to the Earle of Marr, behaved himselfe as the chiefe of that family, and usurped the princes tutelage : this active gallant takes his way towards Sterlin with a traine of friends and servants of no small number, not at all declaring whither his intentions tended ; but presently possesseth himselfe of the castle, apprehends his unckle Alexander, who either was taken at unawares, else betrayed by some of his followers ; so he laid downe his office of governing the castle, and

prince at once. The Earle of Marr likewise acting rather by force than counsell, detrudes Arguile from his trimes-triall observancy, and to those of his servants who were superlative faithfull hee committed the castle: in this com-motion there set a starre, (I would have said) the gallant and illustrious sonne of Alexander Erskin, falling into a violent fever; or if the conjectures of others may be of authority, the resentment of his fathers calamities penetrated his soule so deeply, that he departed this pilgrim-age.

This subitaneous and boysterous disaster being carryed abroad by the wings of fame, caused the nobility and counsell to meet in a hostile manner at Sterlin, where foure dayes were spent in deliberating about the publike quiet, and the kings safety, whose age delivered him into the hands of others to be ruled.

Arguile as plaintiffe layes his bill of injuries done by Marr, (who onely was Mortons instrument) hereupon Marr was summoned to answer such crimes as were objected against him; but his noble descent and demerit of progenitors did purge away this act of green impudency; the king and the counsell prevailed so farre with him, as that he studied to preserve the publike tranquillity, as also to quash all occasions of intestine discord, and civill broyles; the counsell strive to reconcile Atholl, Arguile, and Morton, Marre, and his uncle Alexander, appoynting twelve men, chosen by both parties to determine the controversie, the commissioners composing the differences were men of more than ordinary authority, who met at Edenbrough, there to define and decide the variance according to the rules of law.

These disputes 'twixt uncle and nephew were laid aside by the determination of the arbitrators, which was, that the young Earle of Marr should be held the most noble of that

family, should solely bee governour of the castle of Sterlin, and guardian to the prince, according as his ancestors had beene : but if hee should goe to his grave, not leaving any issue, then the honor to be translated unto his uncle : for the present, Alexander was to keep his regency in the castle of Edenbrough : as for Morton, although he was dejected, and involved into misery by the precipitate fury of Arguile and Athol, yet he would have condescended to any reasonable conditions of concord.

Thomas Randolph, whose many legations had made him exquisite, was received into Scotland with the smiling face of the kingdome : his embassy was a congratulation of those rare and various ornaments of so miraculous ingenuity which were conspicuous in the king at such an age, hee commemorated the many endeavours and favours issuing from his princesse the Queen of England, withall, he demonstrated to Atholl, Arguile, and Morton, how that nothing was more desireable then concord and publike tranquility, nothing worthier detestation then discords and dissensions, which by devastations and solitude, swallowed up the beauty of alliances, families, townes, kingdomes : he did therefore by a more then superlative ardency beseech them to let all these private grudges arising from hatred and envy to run the race of oblivion : his last request was, that Arguile would restraints the islanders from sublevating the Irish with further aid, provision, and ammunition : but this last desire appeared in the species of an unjust request, because Agnus and James his brother Lord of the Isles ; and Surly Boy, or Charles, who from a marke in his body was sirnamed Yellow, being discended from the Mach-Onales, were wafted over with a great strength of their followers into Ireland, and possess themselves of that part of Clandebois adjacent to the Isle of Racline, which they supposed to belong unto their ances-

tors and the family of Mac-Donalds: they performed many valiant atchievements and bloody disputes against the inrodgers in Ireland: but Shan O Neale slaying Agnus and James, so excited the family of Mac-Coneales, as nothing but the blood of Shan O Neale could quench the flames; Donell and Agnus of the same line reassumed arms, and seize upon Clandeboy as an heritage for them and their posterity, causing their swords enter controver-sie with the English, not without cadaverous and ambiguous events; nor did they sheath their swords untill her Majestie of England assured them of their possessions in Ireland: this caused Arguile send aide privately and furnish the Irish with all conveniences to prosecute the warre against the English.

In the interim the deligates consult with his majesty, for a reuniting of the nobility (if by any meanes it might be affected), the result of their consultations was, that the day insuing the antagonists should convene in the middle way 'twixt Dalkeith and Edenbrough, where when both parties came, Morton with a guard of his friends, Atholl and Arguile, with three hundred expert horse-men, after salutations ended, they all went at the entreaty of Morton to Dalkeith to dinner, the next day brought them to Sterlin: in the way they were met by a conflux of people, which came from the neighbouring townes to congratulate their amity; nor was the court, imitating his majesty, inferiour in rejoycing at their entertainment; and while they were yet comming, thanks flew into their breasts, the heavens being filled with acclamations of alacrity. Mortons prudent behaviour and sweet moderation was an attractive to draw the kings approbation; so that he had him in more high esteem: nay, the commons, as if treading in the kings steps, adorned his brow with the wreath of praise.

He in the interim being not ignorant how turbulent a storme of envy approached, ingendred from those ruines of malice, harboured in the nobilities hearts, did what in him lay to attract unto his faction by the loadstone of favours, riches, potency, by conferring court offices, and publique preferments on divers persons, his haughtinesse was grown to the height, that he could no longer dissemble it, but abolished the trimestriall vicissitude of ruling, and now hee will trample upon the neck of his adversaries, foaming with anger, rusheth headlong to his own ruine; thus hee added fuell to the sparkles of malice which was not defunct, but rather raked over with ashes in the breasts of Arguile, Atholl, and Montrosse: He challenged the second place after the king to be due to him at Sterlin, usurped or rather monopolized the steering of all things; This irritated the leaders of the adverse party so far, as to draw up a most bitter satyrical complaint against Morton.

How that in administration of affairs hee had behaved himselfe like a libidinous, proud, covetous creature: that hee who because hee sold himselfe over to avarice, was degraded from regency, now by serpentine windings strives to obtain a continued magistracy, that hee usurped his majesties authority by act of parliament taken from him, swayed the scepter in the interim, abolishing the constitution of serving the prince by course, enervating the authority of publique counsell, that his breast might bee the oracle on which the prince might solely depend for counsel and authority: they proceede likewise to let the privy council and select nobility understand how that his arrogance and violence were inconsistent with legitimate magistracy, desiring not to suffer such unjust power to sway: but if hee should contemne the king's minority and counsels authority, then they would be pro-

pugnators of such wrongs ; but in conclusion the citizens were desired to take armes for the bringing to condigne punishment such as strive to enervate the force of parliaments, which was the subjects freedome, against such as had demolished the trimestriall vicissitude of giving counsel, and solely usurped authority over the kings majestie.

His highnesse was at a stand, not knowing to what this swelling would prove, however his royall resolutions were fixed on a meeting to be held in July following, which he divulged by letters, summoning the peeres and the antagonists to appear in parliament, where they should expect justice. The place for convention was Edenborough, where many of the noble order were assembled, who secretly enter covenant one with another : this arriving at Mortons knowledge, he determined to make fractions of that whole parliament at Edinb. which derived its authority from the weak age, and constitution of the prince, affirming that the place was destitute of pleasures and health, that Sterlin was a place more commodious. Arguile, Atholl, and Montrosse, the innovators, proposed the contrary, that such of the nobility as assembled at Sterlin did not legally congregate, that Edenborough the place appointed was pat for the busines in agitation, that the meeting at Sterlin, where the Earles of Morton and Marre recided at court, were full of armed souldiers, that the concourse of people might open a gap to their enemies, so that there could not be any security for life or free agitation, when surrounded with fears of an overawing power : besides this was an affront offered to the major part of the nobility, who had chosen Patrick Lord Lindsey as a commissioner to let his majestie know thereof.

The kings answer to their remonstrance was, that hee would take care of the nobilities security if they came to Sterlin, by putting the citizens in a defensive posture

against any subitanious commotions or accidentall violence, so that jealousies of an overawing power should be taken away.

But the time for meeting grew neer, and according to their wonted course, the peeres were summoned to give their votes in the court of the Castle at Sterlin, not in the Common-Hall, according to the usual course, al there present accorded without reluctancy in matters of religion, and the true worship of God: there deliberations were unanimous and univocall in affaires of state.

The Edenburgian nobles decreed to declare by their commissioners Montros and Lindsey, that the convention had in the castle of Sterlin was against the fundamentall laws and auncient prescript, nor was it legall, withall protesting that what ever was there acted, to bee illegall, disorderly, and of no validity, seeing the major part of peers was absent for feare of death. The delegates coming to Sterlin caused a sodaine and frequent convening of the nobility to heare what propositions were brought: where the king's highnesse being adorned with his purple robes, scepter, and other majesticall ornaments, answered that it was not materiall in what part of the city they met, in that care was had of his safety against any approaching ruine, that the court was ready to entertain any, exclude none, that their not convening in the Common-Hall should be no prescript to posterity, that none went about to prohibite his moderate tutelage, but hee enjoyed the same liberty, which was granted to his ancestors: that it was his sole desire not to innovate any thing against his predecessors lawes or institutès, nor enervate the authority of parliaments, nor yet revoke the houses suffrages, that which the parliament had proposed to his majesty, or which the states ordered, the same ought to be established; that it was unjust to suppose the opinions

of some few should countervail the votes of the whole house, for no other cause then inane jealousies which their guilty consciences dictated : Lastly, he demonstrated that all acts had passed legally and rightly, approving the parliaments authority by open proclamation, and commanded that Montrosse and Lindsey should be under free custody, separated from the commerce of all, to impede colloquution and negotiation of counsels twixt them : but Montrosse made his escape by the keepers fraudulency, notwithstanding divers horsemen were sent to prosecute and bring him back.

Hee upon eagles wings posting to Edenborough, where in the convention of the nobles, he declared their eminent dangers if prevention were not had, and force resist force, so that such injuries should not be unrevenged. The fomentors of these stirres put themselves in a posture of war, the families of the Humes and Cars siding with them.

Having consulted what was to be acted, they rayse forces, and imploring aid of their allies, attendants and friends, they march forward with some troops of horse and foote, promising them pay, declaring that their taking up armes was to set the king at liberty, restore the nobilities dignity, and the kingdomes safety and liberty.

The kings majestie, although begirt with this sodain commotion, yet undauntedly declared by Mortons advice, that unlesse the chieffes of that faction would lay downe their armes before such a day, let them expect to be dealt withall as common enemies to the state.

These as cracklings of thunder nothing amazed them, who couragiously prosecuted their enterprize, villifying an herald sent to them and his message, rending the princes letters, so that they make a commixture of divine and human things.

On the contrary, Angus, Marr, and Morton, doe the same for their own defence at Sterlin, besides many of the nobility come thither upon the consideration of their princes safety, and their owne affection, with a great course of the commonalty. Athol, Arguile, Montrosse, and their friends, with 10000 armed men, pressed in their march many High-land men or mountainers associating, pitched their tents in an open field nigh the Chappel Nary. The next day Kennedy, the chiefe of that family, and Berganie, with 400 gallant horsemen, conjoyne themselves; the nobility would not move further, having greater hopes in the besieging of Sterlin, then in its oppugnation.

But Angus, in whom was deposited the chief strength of the kingdom, marched before with a party of 500 horse to scout out and take all straglers and pillagers, thence arise a light skirmish twixt the horse, while Mar and Morton leading up the army, consisting of a promiscuous multitude, encamp themselves in the fields adjacent to Sterlin, obstructing all passages, and keeping strict watch: this done, the troopes retreated. One thing is memorable, William Tait, a fierce man of Tevidale, desirous of honour, challenged James Johnston, servant to the Lord Glayms, a man whose valour was found true upon the touchstone of experience, who embraceth the challenge, causing his spurs give an alarm to his horse, couching his lance in his rest, rage was so prevalent in the encounter, that either sheathed their lance in the others body: Tait being deaths prisoner, fell from his horse, the lance (as if detaining that his masters antagonists should survive) being fastned to Johnstons thigh nigh the horse, overturned him.

While this tragedy was on the stage, Sir Robert Bowes the English embassadour intermitted no time to

mediate a peace by his progresse and regresse twixt the opposites, sometimes beseeching the nobles to commiserate their own fortunes, and looke backe to his majesties incolumnity; after a long time spent in debate, it was concluded by this intercession, lest fraudulency might issue from the fomentors, or lest the armies might forrage, both parties were to disband, only some few horse were to be kept on foote for restraining the borderers from plundering: Arguile, Montrosse, and Lindsey, were selected privy counsellours; and eight men were appointed commissioners to determine the controversie amongst the nobility, to nominate the governours of Edenborough and Dumbarton Castles, to reduce the nobility to their lustre, and to preserve the laws and customs of the kingdome.

Thus when the armies were ready to drown each other in blood, peace as the common good for all Scotland (in her white robes) appeared; but its continuance was momentary, notwithstanding the promulgation thereof by proclamation in the city royall: the nobles hereupon take their journey to Edenborough, that their faction might be confirmed in strength, by the accesse of the families of Gordones, Lindsey's, and barons in Fife, the High-land men depart home. In the interim his majesty, whose desire was publique serenity, bends his news to pacification, admonishing the chieffes of either party that jars and dissention were ill beseeming privy counsellours: and to consummate the discord, he proposed these lords to be moderators, Lindsey, Harris, Ogilby, Innernesse, for Arguile; Rothesse, Buchan, Ruthen, and Bode for Morton. The commissioners neither seeking excuse or delay, goe about the conjunction: after a long debate held at Sterlin, it was concluded, seeing dissentions were obnoxious to the nobility, mortiferous to the crown and

state ; on the contrary, peace was the onely safety of the kingdome : The nobles were not only to extirpate dissention, but consummate the warre, so that instead of malicious enemies, they should become friends, and instead of mortall enmity, there should be immortall friendship. And although there was not omission of any thing advantageous to concord, yet the breach could not be repaired ; for Arguile knowing Morton's insinuations was so obstinate as no conditions would be embraced, unlesse the other was debarred of all commerce with his highnesse : Whereupon Morton perceiving himselfe unable to grapple with the nobilities envy, and defatigated by the procrastinations of these present troubles, having taken his farewell of the king, departed the next day, many of his friends bringing him to Dalkeith. Afterwards he allayed the furious animosities of his adversaries by the lenitives of prudence and moderation, asswaging that execrable hatred with vertue and observancy.

The matter now was in that posture, as that the supporters of this controversie were become friends, and their retinue even sought opportunities to congratulate each other : ten men were select for further conference, the Earle of Montrosse, the Abbot of Newbottel, Sir James Balfour, knight, Thomas Kennedy of Bergany, and Peter Hay were constituted for the Earles of Atholl and Arguile ; for Morton were the Earle of Buchan, the Abbot of Dumferlin, the Lord Boyde, Sir John Gordon of Lothenwar, knight, and James Halliburton of Dundy. The place for convention was at the church of Inverness, the time was likewise agreed upon : after some days the delegates met in the adjourned place, where they were invironed with a great multitude of their friends and followers ; the next day they returned to Liberton, (in that it was conceived placentious) where the day was consum-

ed in deliberating, but yet they could reach no harbour ; the next adjourne was to Newbottell, where at last they struck anchor in the haven of concord ; but because the principall parties were absent, there could be no transaction to the full. It was concluded that Morton, Atholl, and Arguile, should meete at Leith without any weapons, where after an interview there passed a most benigne and humane congratulation, having obliterated all dissention caused from diuturnall jars, they communicated themselves each to other at a publique banquet, an act producing an unspeakable gladnesse of the commons, and no lesse joy of his majestie, who having his kingdome once againe in tranquility, called a convention of the nobles at Sterlin, where he congratulates those who had been studious to cause domesticke dissentions and intestine factions to acquiesse. This royall act of thanksgiving inflamed those noble spirits to discusse what ere might be commodious for his majestyes safety, authority, and dignity, his families magnificence and splendor.

The lord of the privie councill, to sublevate the indigency of the kings coffers, declared by proclamation that the kings coyne should bee of greater value, this was overbitter a potion for the citizens to digest, who had learned in the schoole of experience that the augmentation of price on silver, induced the augmentation of price on victual and vendible commodities, besides greater detriments would ensue to the kings revenues, exchequer, and patrimony ; but the lords threatned to imprison such as refused obedience, yet the feares of prison could not deterre them from obstinate contumacy ; upon the neck of this proclamation issued forth another to proclaime them traytors which refused, the terror hereof caused obedience ; this austere course was fathered upon Morton, in that hee had tryed all waies to raise monies.

The precisians would not suffer their plea to fall this yeare, being invested with a perpetuall and constant desire of overturning the prelates, for the bishops had not prevalency either in authority, or favour, to withstand so numerous opposites; according to the desires of these precise men the parliament first handled religion, enacting that all his majesties subjects should professe the reformed religion, and wholly extirpate popery; and the statutes made in the protectors regency for its establishment were decreed to stand in force.

This year Margaret Douglas yeelded her selfe to the coacting lawes of contraries, a woman of a princely majestie, in the 63 yeare of her age, descended from Henry the seventh, for Margaret, his elder daughter, was assigned for the imperiall crown of Great Brittain, and by the applause of the nobles and commons betrothed to James the fourth, of whom sprung James the fifth. After the candle of James the fourths life was extinct, Margaret, who was his espoused, tooke to husband Archibald Douglas Earl of Angus, the flower of the Scots nobility, by whom shee had Margaret Douglas at Harbotell in Northumberland, Matthew Earl of Lenox married this Margaret, he was a man of renowned progenitors, who having left France, came into England, where Henry the 8 adorned him with unparalleld honour; for besides the large possessions hee invested him with in Yorkeshire, he obtained for him Margaret Douglas, his sisters daughter; from the conjunction of these two great stars, Henry Stuart Lord Derly issued: this Henry tooke to wife Mary Stuart, Queen of Scots, allyed by consanguinity before, which Mary brought into the world James the sixt, King of Great Brittain; this most zealous and thrice noble lady had the checkers of good and bad fortune, which posterie wil memorize for externall lineaments

and internall ornaments egregious ; her descent was regall, the fruit of her womb and their numerosity was no lesse. While King Edward wore the crowne in honour, but novercating fortune (lest this lady should be oblivious of mortality) overshadowed her fair haven of prosperity with many inconveniences of humane frailty : Shee was supervisor to 8 of her children, thrice imprisoned for affecting loves, not for any crime against the crown or state : the first was with Thomas Howard, the Duke of Norfolks son, whose ardency in love was so violent, as that he wanted ability to allay the perturbations of his minde : the next cause of restraint was, that her sonne, Henry Lord Derly, had entered a conjugall tye with Mary Queen of Scots : the last was by reason of the marriage consummated twixt Charles, her younger son, and Elizabeth Candish, mother of Arbella ; thus the chaste and legitimate law of matrimony contruded this most faithfull woman into prison (where shee was more sensible of the adversities then prosperous estate incident to her owne family) this act of imprisonment was rather supposed to proceede from the indignation then dignity of Queene Elizabeth : yet after the perpetration of her sons murther, the Lady Margaret enjoyed her liberty : but the repute which had risen from vertue was permanent, not that which was daub'd over by infelicity. Shee was invested with supream honour, her exequies were solemnized at Westminster, where her bones were entomb'd amongst the kings of England, an elaborate sepulchre, an heroicall elogium erected : Shee left behind her a nephew and a neece, James the sixth, and Arbella.

About this time his majestie sent the Abbot of Dumferlin to congratulate her majestie of England for her mutuall affection towards him, for her desire of peace

and concord ; after the congratulation was ended, he desired her highnesse to reestablish the league of Edenborough, to cohibite the tumults upon the confines, to compresse all machinations against religion, to make restitution of such goods as had beene violently taken by the bordering robbers, to perpetuate the amity between the two kingdomes, and if it were possible to connect them in a more restraining tye of covenant. Lastly, he desired, as heir apparant, the ancient patrimony of the house of Lenox in England.

The queen answered shee was ready to grant any mutual league for the tranquility of either kingdome, and security of religion : but as for the patrimony of the Earl of Lenox, it was of more difficulty then to expedite in so short a space, besides it was a matter fit for consultation ; seeing the embassadour had demonstrated by many arguments and historicall examples, that the king of Scots was heir by an undoubted title to his ancestors patrimony, and that was the proper patrimony of his majestie, which was a sustentation for his negotiations ; whereupon hee earnestly supplicated her highnesse that the estate conferred upon the kings ancestors in the county of Huntington, successively by the kings of England, should not be denyed his majestie, which was her neere kinsman. After a long debate, Queene Elizabeth remitted the businesse to her councill ; they to divert the embassadour from it, required the states of Scotland to give assurances that the K. while he was in his minority, should not enter or renew league with any without the queenes knowledge thereof, or solemnize matrimony, or be transmitted out of Scotland ; to these proposalls the embassadour gave response, that his commission reached not so far, but the patrimony for the present was not restored, yet her majesty put him in hope of reaping the profit.

ANNO DOMINI 1579.

The Earl of Atholl lord chancellor in the infancy of his yeares, by reason his disease augmented its vigour at Kincarn, was detained in a village belonging to Montrosse, where not long after he yeelded nature her due; the anxiety of his minde brought him to his exit, or a delaying and consuming poyson took him hence, according to the supposition of some (which I rather credit) in that all the symptomes and paths of poyson were apparant in his cadaverous bulke; the obsequies were celebrated by a convention of tears, multitudes, and a banquet at Edenborough, in Saint Giles Church, where all the ceremonies conducing to honour, were executed: upon the tomb stood the effigies of a pellican delacerating her breast with her beake, to give the young sucke, intimating that hee was ready to sacrifice his blood in defence of the kingdome: the suspicion had of Atholls death fell sad upon his corrivall Morton. Hence was it that after the solemnization was consummated, grievous contumelies were injected upon him, and Atholls lady even wearied with a more tedious sorrow, sends forth sad complaints; in fine, an apparition of reconciliation appeared twixt his accusers and him. Arguile, one who suspected and abbotminated the thoughts of his friends death, succeeded him in the place of being chancellour.

The king, although milde towards his nobility, yet was inflamed both by instigations of Morton, and his own anger against the Hamiltons for the slaughter of his grandfather Linnox, and Earle of Murray, regents, as also for other notorious crimes abolished in the yeare 1573. This much honoured familie Morton determined, since they were dimoved from court, to follow them with fire

and sword: and now that Morton saw his corrivall Atholl to be re-entered into the earths womb, he began to dilate his malice in remembring affronts, and seeking to revenge them; and as it became him, sought to secure himselfe, opposing in an hostile manner the grand enemies of Lenox.

John and Claud, the most glorious stars of the Hamiltons, perceiving that the enemy surpassed them in number, determined to secure themselves in strong holds; but remembring that a sodaine irruption might circumvent them, they desisted, choosing rather to trust unto flight and nocturnall shades.

The Earls of Mar, Angus, and Morton, marched with their allies, retinue, and souldiers, into the Hamiltons possessions, the rest of the nobility and citizens, according to the councells decree, were to send aide, the earls sent forth parties of horse to give the Hamiltons an alarm, and so provoke them to fight, but they durst not so much as fall upon the straglers; hereupon they laid the parts adjacent to Glot wast, burning houses and plundering the countrey, approaching close to the Castle of Hamilton, planting their pieces, and stopping up all passages, the place was fortified both by its naturall site, and strong garrison: but yet the defenders being impatient to endure a siege, desire pardon, and onely leave to depart with their lives: the Abbot of Driburg was presently dispatched to his majesty at Sterlin, who answered him that it became him not to treat with men who by treachery, unhumanly butchered his grand-father Lenox: but they ought to be esteemed as men already condemned for guilty, and begging life upon the delivery of his majesties answer to the besieged, there arose a great strife about the delivery up of the castle betwixt the guilty and innocent: but while they disagreed within, Sir

James Hamilton surprized the Castle of Dreffon, putting to the sword all such as withstood him; and the Earle of Glencarnes sonne, cutting of the watch, possessed himselfe of Paslet: thus the race of Hamiltons was circumvented, sub-planted, and put to the sword by the treachery of inhabitants, and domestick dissensions: for these losses drives them into such straights, that seeing their deplorable condition, the guilty desire to surrender themselves up to his majesties mercy, who onely caused some of those that were actors in the parricide to be executed, and their goods confiscated, the residue were pardoned: thus the king shewed himselfe equally mercifull and just: he kept garrison in the castle to suppress any insurrection.

In the interim John and Claude, the sonnes of the Duke of Castleherault, seeing no safety to consist in armes, and the kings forces to be in severall places, fled forth of Scotland, for fear of Anguse, Marr, and Morton; when they had reached a place of refuge, they take counsell whether it were better to try the mercy of the French or English, although Queen Elizabeth was great with anger against the Hamiltons, for siding with the French faction; yet the sublunary vicissitude, and renown of their progenitors, excited her majesty to give them an harbour and refuge for the weather-beaten boat of their fortunes; and she sent Master Errington unto his majesty, earnestly to intercede for them. Tell me, did he ever come forth of his mothers womb, who to behold those miserable objects of a most strange fortune, with their deare wives, and sweet children following them, would not have burst forth into commiseration? and were they not the more to be pittied, in that they rather chose thus to be afflicted, then raise civill warre in their country, which surely they might have done.

Much about this time did Mary Queen of Scots, being now an exile, desire her majesty of England, in some convenient time, to take into consideration her miserable condition; and if neither consanguinity, or her being borne a free prince, although beaten out of her kingdome by a detestable rebellion of subjects, could not move her, yet let pitty prevaile to suffer her reigne together with her son, which she supposed would be an unparalleled act of clemency. But these her petitions, and humble obsecrations, could not revoke Queen Elizabeth to lenity and commiseration, in that having consulted with the Scots, they made answer, her liberty would involve their nation into a most sad and destructive warre; for she would labour to revenge the injuries done her, diminish the young kings authority, and change the state of religion.

The Queen of Scots being commoved by the greefe falling from such hopes, earnestly intreated the Kings of France and Spaine not to suffer her who was allied to them by consanguinity, nobility, and degree, to perish in prison; but to revenge these indignities, late rebellions, and plundering of her subjects; these motives were prevalent with the kings, who fostered a hope of restoring her to liberty and former dignity. Secretary Nay, a French-man, was immediately dispatched into Scotland with letters, and private mandates from Queen Mary, where he arriving, required to have admittance into the kings presence, to consult about the state and condition of his mother: his majesties counsell having read the title, running thus: Queen Mary to James the Sixt prince of that name, stormed vehemently thereat; inso-much as they would neither entertaine those haughty letters, nor messenger; both because that instead of writing to the king, she had writ to the prince, as in diminution to

his authority, especially seeing the king was lawfully enthroned by her consent. The messenger notwithstanding pertinaciously assevered, that the power of regency was in the queen mothers hands; the privy counsel therefore determined to remit him answerlesse, unlesse the queene would rectifie that fault, and write to the King of Scots, which if she denyed to performe, shee might surcease in hoping to receive her desires. The monsieur being hereupon irritated, incontinently departed: The Queen of Scots understanding by him, how there was no way to impetrate any thing, unlesse shee renounced her title, subscribing not onely to her son, but also to his majesty.

The court was spread over with notorious libells, which spoke sometimes poetically, otherwhiles oratorically, besprinkling Morton and other illustrious nobles with oblique. The authors of these spurious brats were one Turniball, and one sirnamed Scot, who after judgement past on them, were executed in the market-place of Sterlin, after an unusuall manner; for the custome was to punish libellers either with temporall banishment, or confiscation of their estates. Morton, by vindicating his quarrell in this more severe manner, became odious.

These things thus in agitation, there came into Scotland Amys Stewart, Lord Obigny, so called from Aubigny, a village in Aquitaine, who was lineally descended from Lenox, being the sonne of John Stewart, brother to Matthew Earle of Lenox, who in the kings minority was regent: this Amys Stewart was supposed to have beene sent over by his neare allyes, the Guises, to subvert religion; or, as others thought, Montrosse and Arguile sent for him to overturne Mortons authority; or at least to break the truce 'twixt England and Scotland: he arrived at Leith, where his majesty commanded that he should be received with especiaall honour, and so in great state

he was carryed to Edenborough; from thence to his majesty at Sterlin, where comming into the presence chamber, he prostrated himselfe, desiring the King of Heaven to blesse his majesty with perpetuall felicity: No sooner did the young king see him, but in that hee was so neare allyed in blood, of so renowned a family, eminent ornaments of body and minde, tooke him up and embraced him in a most amorous manner, conferred on him presently a rich inheritance; and that he might be imployed in state affairs, elected him one of his honourable privy counsell, gentleman of his bed-chamber, and governour of Dumbarton Castle.

But this trumpet of fame being heard over all Britaine, begat envy, especially because Obegny attracted the Scots to the French amity, and attempted to revoke Thomas Carr of Farnihurst, a faithfull servant to the exil'd queen, from banishment: You may be pleased to look back to the originall and discent of Lenox in France, John Stewart of the same line, in the reigne of Charles the seventh, when open war was proclaimed 'twixt England and France, transported an army over for their ayd; for which hee was created master of the horse, in a conflict at Bauge overthrew the English, so that he wonne a possession in Barry or Burges: in the reigne of Charles the eighth, Bernard, of the same house, was held in great repute for prowesse shewed in the Neopolitane warre, subduing Italy, and vanquishing Alphonsus King of Arragon. Indeed, hath any historian sufficiently colauded the worth of this man? but he having no issue, he conferred his estate in France upon John Stewart, his cousin: after him were John and Amys, both valiant, if their times had called for prooffe thereof; both tooke their repose in the civill warre. This man was of a milde genius, if the chariot of his minde had not been driven by

violent perswasion, he was ready to relinquish troubles : his fidelity to his soveraigne was unblemished, love to the nobles great, fortunes darling for three yeares, afterwards the subject of hatred and domestick troubles : to say no more, he shewed himselfe worthy of his progenitors, and family of Lenox.

His majesty summoned a parliament to be held at Edenborough the thirteenth of October, where he resolved notwithstanding all mutations of weather to be in person ; nor indeed could the raine, stormes, hideous blasts, and lowring heavens, dimove him from undertaking this necessary journey : upon the way from Sterlin to Edenborough, he with his nobles and followers were so weather-beaten, that it was night ere they came to Limnough, where lodging that night, the next day they came to Edenborough. And on the first day of the parliament, hee being invested with his regall robes, bravely mounted, rid in great state through the city to the parliament house, the nobility and clergy, according to their degree, going before : thus was his majesties entrance into the principality solemnized with great splendor ; the imperiall ornaments were supported by Archibald Douglas, Earl of Angusse, Collen Cambell, Earl of Arguile, Robert Steuart, Earle of Lenox. After these came his majesty, adorned with the rayes of imperiall glory, his retinue and servants waiting upon him : This rare spectacle was an attractive to draw the multitudes eyes after it ; so that they follow the king with clapping of hands, venerationes, and prosperous wishes : ascending his tribunall, in few words he briefly declared to the lords, having taken their places, that this concourse of the states elevated his soule on the wings of alacrity, seeing it tended to the establishing of the common-wealth, that he was conscious how his nonage administred occasion of commotions, that he reposed his chiefe

hope of tranquility, peace, and concord, in their wisdoms. Lastly, he calls God to attest that his intentions aymed onely at the preservation of religion, subjects safety, and kingdomes security.

The parliament first cast their eyes upon religion, enacting that those solely should bee esteemed members of the true church, who professed that forme of confession agreed upon in parliament 1567. And agree to the prescript of administring the sacraments in act and will ; that no religion was to be esteemed orthodoxall in doctrine and discipline, save that the Scots embraced, in the present. The nobility were not to transmit their sonnes into forraigne countreyes, unless having a warrant from his majesty : which obtained, the travellers were to oblige themselves both by oath, and subscription, that they would observe inviolably the doctrine and canons of the church of Scotland, that every family should have and retaine a Scottish bible. The power of ministers was likewise confirmed to preach the gospell, administer the sacraments, to censure mens behaviours, and chastise delinquents, the discipline erected publikely by bishops and the super-intendents suffered diminution, although as yet no synodicall act had passed for their abolition. The next thing agitated was that of the Hamiltons ; many of the nobility demonstrated the equity of their punishment, returning his majesty thanks and praise for his care had therein, John and Claud Hamilton, whose veines flowed with noble bloud, and other fifteen of especiall note in that family, upon the discovery of the murther, by a generall vote were held rebels, for the death of Murrey and Lenox regents, to have their estates confiscated, which were no lesse delicious then fructiferous booties. The next scene which came upon the stage was the donation of Paslet to Obigny, and Arboth

to Marr : There were not wanting some, who even burning with anger and revenge, excited his majesty utterly to abolish the name of Hamiltons ; and the chiefe of these men was Morton : but the king having more respect to his honour then their fury, would in no wise condescend to this unheard of cruelty, supposing it rather fit to apply such remedies as the lawes prescribed.

There was a remonstrance delivered to the house concerning corrupt judicatures, depraved judges, favour, bribery, covetousnesse, that the lawes were invalid ; nor indeed could they suppose any use of law, seeing that the chiefe judges had their judgement in their owne breasts, and the lawes extended not to the punishing of wives or servants corrupted with gifts.

The parliament to augment his majesties treasure, revoked all annuall pensions, which were conferred on divers persons in the kings minority. The donation of the Earledome of Lenox translated to his uncle Charles Stewart was revoked, and by act of parliament conferred upon Robert Stewart, brother to his grandfather, who willingly resigned it to Obegny, being afterwards Earle of March : Obegney was first created Earle of Lenox, afterwards ascended to the honour of Duke.

The state thus constituted, the Hamiltons repressed and condemned both by law and act of parliament, the king at his comming to the crowne, won the hearts of his subjects by his religious behaviour, strict oeconomy, faithful followers, and rewarding of carefull guardians ; so that with great festivity hee returned to Sterlin to recreate himselfe, where Lenox begun to be very remarkable, in that hee received into especiall favour James Stewart of Okeltry, who had shewed himselfe in Holland a very ventrous commander, although of a violent genius ; and

William Stewart that valiant field marshall, whom I have mentioned in another place. He likewise obtained a pardon for Carr of Farnihurst, although Morton strived earnestly to hinder it: who coming back was not unmindfull of Lenox his late favours, and Mortons inveterate injuries, beginning to fanne up very cunningly the sparkes of discord.

But now while Lenox ingratiated himselfe into the kings favours, his enemies privately endeavoured by vulgar rumours, and plebeian malice, to make him odious, reporting that hee machinated the destruction of the protestant religion, subtilly promoved popery, weakning the kings faith: nay, some popular men were so bold as to say in open pulpit, that he was sent by the Guises to overthrow Gods worship, foster the French faction, and disturbe the kingdome. These hideous complaints, that the court harboured upstarts, who were ready to sacrifice the kingdome, and religion: in the kings unexperienced yeares, so moved his majesty, that after consultation with the most of the eminent clergy, he selected some few of them to instruct Lenox in the true religion, conjuring them by their allegiance and fidelity to lay aside all private grudges, and unfeignedly endeavour his conversion. They returning his majesty humble thanks for their election, ascertained the K. that they would endeavour what in them lay to performe his highnesse desire; and Lenox promised himselfe to be ready to heare them. Their congresse was daily at Edenborough for conference; the controversies fled to the scripture for authority: the conclusion was, that Lenox, whose soule more hungred after truth then contention, yeelded to their perswasions; so that in presence of the city magistrates, and prime of the ministry, besides a great conflux of people, he chan-

ged his faith, renouncing the papall superstition, and embraced the reformed religion, confessing his former errors; and for this religion he would fight; for this he would exhaust his veines: nay for it he would lay downe his life. Although this act was pleasing to his majestie, and major part of the nobility, yet blind envy, the dayly companion of fortune, ceased not to detract from his virtues, corrupt his honours, and blot him with dissimulation.

Hereupon his majesty was more moved, so that he was carefull to declare his integrity and confession of faith; to which afterwards he and his meniall servants, and those of his nobility, whom bloud had advanced to great dignity subscribed, that the more confidence might bee reposed in his officers.

In the interim Obigny taking his journey towards his majestie, residing in Sterlin, spent some few dayes sportingly in quiet and rest, besprinkling the kings carriage, disposition, and ingenuity with the French garbe, instructing him in field exercitations of horse and foot, so that the king rides the great horse to the delight of all.

Much about this time Ruthen married his daughter Jane to the branch of hope the Earle of Atholl, many of the nobility solemnized the nuptialls at Perth: their celebration in banquetting almost arrived at prodigality, the harmony of voyces, sound of flutes and trumpets made all the city eccho, the eyes were delighted with pictures, the eares with delightfull songs. The vulgar beheld the detriments of vice, masques, sights, and elegancy of banquets: thus was the old nationall parcimony changed insensibly into ryot and attyre; externall luxuriousnesse creeping in the shape of humanity.

ANNO DOMINI 1580.

While Scotland took her rest, a blast of fame from an unknowne mouth was noysed abroad, that Morton machinated to draw his majestie into England; Hee being bespotted with these sad defamations, strives to assoile himselfe at Sterlin, harbouring an implacable hatred against his enemies, presenting his majestie and the chiefe of his nobility with a grievous complaint, as that being circumvented by forged calumnies, hee must take his leave of the court for a time, not because of any guilt in him, but lest the redintegration of contention might flame forth into publique destruction. The author who had laid those snares he knew not: yet this hee knew, that who ere he was, he was no other than a lyar, (a word as bad as a dart to a noble-man.) His majestie being molested with these doloreferous complaints and devious rumours, strives to compose the matter, lest that sedition might get head, imputing all fault to the rude multitude; withall, telling Morton that he ought not to be troubled at such an idle and improbable report: besides hee was not suspected of the least fraudulency or attempt. When Morton was almost appeased, Arguile his ancient emulator began to reblazon this report, intimating to the counsell-table this bold enterprize of transmitting his majestie into England: but this weak assertion having no other staffe for support then his word, was overthrown by the bare denyall, which he durst not prosecute for feare of incurring an ignominious taint, so that hee desisted from any further progresse, having already received a checke for his malevolency and hatred.

Queen Elizabeth hearing that Lenox, Mar, and Athol were elected privie councillours, was much troubled, es-

pecially that Lenox, who was knowne to be a devoted vassall to the French king, and borne in Aquitaine, should be a privie counsellour, which made her feare the alteration in religion, and disunion twixt the two nations.

The tempest had now been turbulent a long time, and those whom her majestie of England had sent to acquaint her how affairs stood, spread grievous reports. Peaceable Lenox (whose sweete disposition I have mentioned elsewhere) seemed to employ his wit in promoting James Stuart to be guardian to the Earl of Arran, who had now been 15 yeares mad, and likewise to be captaine of his majesties guard : his desires were not frustrate, for he was made guardian over Arran, and captain of the guard, which no sooner obtained, but then he possessed himselfe of the isle and castle Arran and Kinvell, and other riches belonging to that family, committing many and turbulent outrages without all law or custome : To give you a short character of him, he was a lewd, ambitious, harsh, and indiscreet man, composed even by industry for terrour and astonishment, insolent, immane, and haughty, he could not brook a free word or look, by nature fiery, of a souldiers constitutiō, being more imperious then the turbulent spirits of the Scots could endure ; he would have a finger in every thing, causing his tenants subject themselves to his cruelty, libidinosity, and avarice ; hee assailed the nobility with no lesse livor and malignity ; hee was odious both to them and the gentry, daily augmenting their anger by the timerity of his genius, and violence of judgment : he would often among his intimates threaten destruction to some of the nobility, retaining a catalogue of their names who were designed to death or exile : when hee distrusted the nobles fidelity, then he kept a guard about himselfe, placing every where in the fields parties of horse : he questioned many men of good ranke

by interrogatories concerning their life, fortunes, reputes, after an unusuall manner of proceeding. And now being secure by reason of the turbulency and heart-burnings amongst the nobility, hee laid a foundation for his potency, converting all his care and cogitations to enrich his treasure and set his estate in order, but yet he durst not ascend to the height of his designe before he had supplanted Morton: When the common-wealth was in so great an amazement, and tottering condition, all things being steered by James Stuart of Okeltry, the ministers beseech and invoke God (the revenger of pride and cruelty) to raine downe imminent judgements upon him.

Morton being of a bitter and fiery nature, was not able to brook the haughty, domineering, and unlimited power of this yesterday ambitious creature, in a free kingdome. He began therefore to see if by any means he could circumvent him; but in that he had not sufficient strength to divert the fury of discord, he only for the present excited the nobility, repositing his indignation for a time: but the fire of domesticall discord could not be hid: for one who was privy to Mortons designe, hasted to James Stuart, who no sooner heard him up with the constitution of his genius being pride, then he began to feare lest he might be reduced into order, leaves no way unattempted for the prevention of Mortons plot: nor was it long after that James Balfour, one whose nurtriture was discord and sedition, and a cunning sower of debates among men, returned into Scotland, being not more desirous to accuse Morton for injuries past, then for his exile. Hee produced a schedule which was subscribed by the kings parracides, and signed by Morton: and as he rashly brought this to light, the light glimmerings of these rumours shone to her majestie of England, who feared that religion might bee eclipsed in Scotland, and so by

consequence the nationall league would be broke, and an occasion of putting the kingdome in a military posture. Shee therefore could have desired to have seene Lenox (being one that was no favourite of her faction) lesse in authority, favour, and potency at court, and her womanish feares being augmented by the report of Mortons depressing, and the low ebb those that favoured the English were at: besides Balfour was made governour of that invincible Castle of Dumbarton, which stood neere an arme of the sea upon the bankes of Glot, a very commodious haven for the French to land; which was probable, since Balfour came to transport the king into France: Upon these and the like considerations, shee sent Sir Robert Bowes, treasurer of Barwicke, presently to acquaint her majestie therewith in what condition the kingdome stood, and how the Scots were affected to the English; to accuse Lenox as one who had done his whole endeavour to deliver the king, kingdome, and the subjects of Scotlands liberty, into the hands of their enemies: That he had solicited his majestie (contaminating his greene yeares with ill counsell) to alienate his affection from the queen of England.

Sir Robert Bowes being admitted to the councill-table, where shewing his letters of trust to the king and councill, refused to expostulate any further concerning the purport of his embassage in the presence of that knowne favourite of the Guises, Obigny: and lest delays might be obnoxious to publique proceedings, hee desired that he might be removed, whose presence would hinder any free consultation.

But the council answered, that his demands were unjust, and his desires to put out one of the privie councill, without the least specification of any crime, was a thing not to be embraced. They desire further to see his com-

mission, if he had any such direction from her majestie of England, which he refused to shew; whereupon he was dismissed by the votes of the whole councel-table, as an embassadour without instructions; nor could his majestie be induced to do otherwise, although counselled by some few, because the whole councell had so determined.

Sir Robert Bowes aggravated the not harkning to her majesties salutiferous councel, tending to the peace, concord, and common good of both kingdomes, and omitting his duty in taking leave of his majestie, departed out of Scotland. But his sodaine and precipitate regresse was seconded by a progresse of Alexander Humes of Northbarricke, who was sent embassadour into England to excuse the matter to her highnesse, and not undeservedly to returne the 'contumacy of violating her embassadours office upon the head of Bowes, who upon the demand of seeing his instructions, and that at the councel-table, denyed to do it.

The queene being highly displeased at the great neglect of her majestie, and her dignity, and the contempt offered to her embassadour: that shee might repay like for like, remitted Hume already fretting thereat, unto the Lord Burley, who at that time was not only of her councell, but one on whose poles of fidelity and industry, the dignity and honour of England was moved: the Lord Burley gave him to understand how unhonourably Bowes in his embassage had been used, a gap being laid open to discord, that the most sacred law of nations was contemned and violated: with a great sence and sorrow prosecutes the contempt of majestie, removing the blame from off the young king, who was steered more by others then his own judgment, and imputes it only and wholly to those his evill counsellours, unskillfull in the law of embassage; who to curry favour with the common enemies to both

kingdomes, neglected equity and justice, their old duties, the covenant and league established, but rather made breaches of amity twixt the two princes, fostering them with hopes of new friendship, casting themselves headlong againe into the French servitude ; by name he accused Lenox and Ja: Stuart, as desirous to extinguish her majesties favour with the king ; besides he expostulated of the daily incursions of robbers from Scotland, which molested the borders, and in the last place adorned Sir Robert Bows the English ambassadour with what encomens, words, or prayse could speak.

Hume on the contrary attested with great ardency, that for his owne person he had alwayes beene most desirous of a perpetuall peace and accord twixt the two kingdomes, having observed what fidelity or diligence could expect, all those offices of humanity ; That her majestie had denyed him audience or congresse, which was an indignity not only offered to himself, but to the king his soveraigne : Withal he admonished Burley to remember as that he was elected a councellor and faithfull adviser of her majestie, so those councellours of their neighbouring king was not unskilfull, but ought likewise to be esteemed faithfull and well-wishers to his majesty. The residue of his speech was complaints of the ravenous English borderers, and calumnies of the English embassadour.

Much about this time were the nuptialls of John Earle of Mar, and the sister to the Lord Drumond solemnly celebrated with a great confluence of friends : he for authority, grace, ofspring, riches, and potency, was so prevalent, that no earl in Scotland could run parallel, nor was his hopes of posterity lesse then himselfe.

A secret fire of contention was kindled in the bosome of Ruthen lord treasurer, descended from the height of

honour, and of no lesse potency in his retinue, and of the young Lord Oliphant, whose dignity and love run equi-page with his opposites. This altercation arisse from over licentiousnesse of language which past twixt their followers: the dispute began to be so hot, as one of Ruthens servants was slain, and he hereupon fled from the imminent slaughter. This accident put the councill-table into a posture of great care, lest that they should assemble their friends and followers sodainly to bang it out bravely, which made them take the controversie into consideration; they found that the tumult arisse from both parties. Oliphant and his followers being contaminated for the fact, and frighted by the feare of punishment, betaketh themselves unto flight, sending their advocates to desire his majesties pardon: many of the nobility interposed their authority, lest by these unhappy distempers the commonwealth should be disjoyned: but the fire was not so soone quenched, and to augment it, Morton more favoured his kinsman Oliphant then Ruthen, his most intimate friend; hereupon grew that envy and hatred which was mortiferous to both.

But let us looke backe upon James Stuart guardian to Arran, who domineered over the lives and fortunes of very upright men, supposing that there was now nothing to establish his potency, save the eversion of Morton: and having knowledge of that tacite heart-burning which was betwixt him and Ruthen, he added flax to his fire by disjunction and subtile practices, offering himselfe to bee at Ruthens command: thus by dissimulation he caught him in his net, who stood him in good steed, for hereby wrestling with these distempers grew enraged; and ere hee had well premeditated what to object, upon his entrance into the court at Holyrude house, with a dolefull countenance, affirming before the counsell in the presence of his majesty,

and chiefe of the nobility, that Morton was worthy of death, as being guilty of treason, insatiable covetousnesse, and of murthering his late majesty. Hee likewise accused Archibald Douglas of Wittingham as an actor therein.

Upon this accusation Morton was commanded to be diligently kept in the palace: others were sent forthwith to apprehend Archibald Douglas, but he well knowing in what condition hee stood, and afrighted by the feare of the times, or of punishment, took the opportunity of that night to fly from his owne house to England.

Morton being guarded with a great multitude of followers, was led prisoner, first to Edenborough, then to Dumberton, where he was attended on by divers troopes, and men of espetiall note, as the Earle of Glencarne, the Lord Seton, Robert Stewart of Orkney, the tutors of Cassill, Bargany, Lochenwar, Coldinknowles, and Manderston.

The day of his triall approaching, the family of the Douglasses were great with rage, that so noble a spirit should be oppressed by one of a dayes production: the Earle of Angusse, Mortons intimate friend and kinsman, was grieved at his deteining, he with five hundred horse, leaving nothing unattempted, laid in ambush to intercept him in his journey, and threatned Lenox with fire, destruction, sword, and banishment, if any greater punishment should afflict Morton.

To prevent all plots hatched by the Douglasses his journey was hastened, but Morton would in no wayes condescend to their endeavours, rather restraining their tempestuous designes, as one who confides more to his owne innocency, and the kings clemency, then their precipitate courses. Those subjects that had behaved themselves valiantly and untaintedly towards their countrey, were mindfull of Mortons demerits; and deplored their present

condition, which proceeded from immoderate liberty kept at home: others there were, and those not a few, whose natures abhorred peace and quietnesse, either being effected with some injuries done them by the protector, or with his condemnation, or other tempestuous stormes, hoped that this new forme of soveraignty would effect something to satisfie their desires of revenge, or exalt them to some higher dignity: James Balfour, who was either engenier, or actor in all the Scottish troubles, Thomas Carr of Fernihurst, and Manderson, excited by the banishment of the Humes of Coldinknowlls, and by other private injuries, proffer themselves as adjutors to the guardian of Arrane, whom they admire, accompany, obey. But few there were of illustrious extract, who voluntarily came in unto him, or any of a good repute, which did not tremble at, dread and fly from him as from some savage, and inhumane creature, because he exercised his imbred severity upon the poore, or such who did not effect his money-racking way to manage his affaires.

In these black mists, the jesuites, and popish priests stole into Scotland, labouring of intestine sorrowes, that they might promote popery, re-erect and confirme by their presence the drooping spirits of such as were popishly affected, and endeavour to innovate matters in the state: the ring-leader of this crew was John Dury, who undertooke to be a shield in defence of Edward Campian, that English jesuite, against those stroakes of John Whitaker, who gave occasion to the ministers of England to enter the lists in matters of faith, as shall bee conspicuous when wee come to speake thereof in its place.

But to returne; her majesty of England sent Thomas Randolph, post-master generall, ambassadour into Scotland, to divert, if either wisdom or prudence could effect it, the cloud of destruction hanging over church

and state ; and to sollicite for Morton, whose life and repute was in very great danger, to send away the Duke of Lenox, an antagonist of the English favourites, and elevate the mindes of such whose affections were concentricall with them. Randolph shewes his commission from the queen to his majesty and counsell, making splendid recitall of those many demirrits done to king and kingdome, even when France sacrificed her whole strength for her destruction ; but the kingdome of Scotland by Gods blessing upon the English forces, had pulled her feet out from the French tyranny, and was at liberty ; he insisted likewise, that those tyes of consanguinity and religion, were sufficient motives why she should strive to preserve him ; for all which merits she desires that Obegny, the endeavourer to subvert the reformed religion, ruine of ancient families, the private and publike object of hatred ; and as it was apparent by the intercepted letters of the Bishop of Rosse, that he onely stayed for opportunity to innovate matters of state, should be exterminated the kingdome, that Morton who was accused for the kings death, should bee tryed after the usuall manner, that Archibald Douglas might be questioned without racking, that James Balfoure, lately returned into his countrey, being guilty of murthering the late king, and for many yeares had been a fomenter of all uproares, might be imprisoned ; and he accused Lenox of the same crimes.

To which his majesty gave answer, that for his kinsman, in whom he had not found any crime ; he was ready to satisfie the law when ere he should be brought to his triall ; but it stood not with his honour to condemne a noble man without suffering him to plead his defence, or giving audience : but thus he seemed to question the liberty of the kingdome of Scotland, more then the reports or deeds of Obigny ; as for Morton he need not feare any

punishment before that he should be tried by his peers, concerning the crime whereof he was accused ; and Archibald Douglas, who had set at nought the vigour of judgment by absenting himselfe, should have liberty to free himselfe from those most foule blots ; but as for a prescription for future punishing, he could no wayes condescend thereto. Lastly it was unknowne to his majesty, that James Balfoure was actor of so many out-rages in his dominions. And having thus said, Randolph earnestly desires the nobles to begge Mortons life of his majesty ; but being denyed, when he saw prayers would not prevail, he menaced open warre.

But the ambassadours fulminations did not at all deterre his majesties generous and sweet minde, who answered, that the fortune of a battle was incertaine, and he was ready to defend his owne coasts. Hereupon Randolph grew more enraged, as if he had been incited by the spurre of envy, determines rather to involve the state into further trouble, then according to his commission apply remedies to the present distractions, making clandestine combinations with Lenox competitors and Mortons friends ; to whom he commiserated the deplorable condition of the times, that the king was fallen into the hands of a French-man, an enemy to the English, whose wicked desires aymed to reduce the ancient families in Scotland into oblivion, bring the K. and religion into danger ; he declares how that there was only one doore left to escape out of, to free their prince from the hands of a stranger, themselves from externall violence, and force : which if they would doe, he promiseth that the Queen of England would furnish them with all conveniences.

But this rash counsell was presently made knowne to his majesty : Randolph being conscientious of his violating of embassage, got him privately to Barwick, and

advise his accomplices Angus and Marr to provide for their own security.

The king, upon Lennox and Arrans motion, commanded the Earle of Angus to retire himself beyond the river Spea, and to render up the castles of Tencall and Douglass. If he executed his majesties mandates, there was some sparkles of pardon yet remaining; but if these conditions should be rejected, let him look to be proclaimed rebell: but he knowing that there was nothing safe or sure from that wicked guardians hands, fled into the asylum England, and Marr trade in his steps, being accompanied with a great strength of his faction, avoyded further danger by flight.

Mens mindes begun to stagger by reason of the suddaine departure of the embassadour, some, striving to palliate the foulness of flight, but the most, supposed sad and turbulent blasts of distruction to approach.

The English proclaime open warre, and yet the Scots were not long after them in preparing for common defence, lest that some suddaine danger might be brought upon them by the exiles. Her majesty of England sent downe divers commanders with a great army into Northumberland. The king of Scotland, lest he should not be fitted to embrace their threats, dispatched John Graham, Earle of Montrose, his lieutenant, with a considerable strength of five hundred horse and two thousand foot into the borders of Scotland, to restraints any depopulations, if the war should be prosecuted; and by the coming of the lieutenant generall Graham, the English were at a *ne plus ultra*, so that they did not any thing of note, unlesse it were to denounce, rather then prosecute warre. The families of Humes, Carrs, and Scots, kept garrison in the middle borders, Johnstons and Maxwells in the west, having a great army of the

countrey people, who by keeping their watch and ward kept the countrey in quiet. His majesty had for his personall guard ten foot companyes, and some troops of horse; to defray their charges, he called a parliament, and desired a subsidy for to pay them: But the English disbanding their army, gave the king occasion to dismisse his guard.

Arrans guardian, who hating all that had reference to Morton, reassumed his fury against George Fleck, Mortons sisters sonne, and Alexander Lawson, his intimate friend, whom hee brought to the racke, to confesse such questions as were objected; he distorted Fleck with his brazen rack and grim countenance for a long time, that he might extort from him those falshoods, that Atholl dyed insensibly of poyson given by Morton: but this was not of violence sufficient to draw the least syllable which might prejudice Morton: Lawson being of a cowardly degenerate spirit, at the very sight of the tormentor confessed the most secret intentions of his patron, where his treasure was, the feigned conspiracy, and a long catalogue of offences; but sooner would the rack have divorced the soule from the body, then fidelity from the soule of Fleck; for when hee was brought back to the torment, hee seemed to racke both the racker, and racke it selfe: It was not binding or buffeting, no, nor yet the cruelty of those unmercilesse men, which could induce him to betray Morton. Thus it appeared that torments doe not moderate every mans nature: the like cruelty hee exercised on the chiefe of the Douglasses; Thomas Douglas of Loghleven was accused of things concerning life, who answering by his advocate, was removed into the north of Scotland, James Douglas, and Archibald, the naturall sonnes of Morton, George their bastard brother, Malcolme, Lord of Many, Sir John Car-

Michel, his intimate friend and kinseman, were banished ; and it was likewise proclaimed that none should harbour or relieve them with money, victuall, or other necessities. To summe up all, he who was guardian to Arran, is created Earle of Arrane, ascending by the steps of cruelty and inhumanity of nature to a greater degree of hatred and malice in the eyes of all good men.

ANNO DOMINI 1581.

The suddaine departure of Randolph so moved his majesty, as that he sent without intermission Sir John Seton ambassadour into England, to represent unto her highnesse his candor, withall to complaine of Thomas Randolph, who had rather beene a fomenter then allayer of the hot flames, holding correspondency with Angusse, Marr, and other nobles, in matters no lesse perillous and cunning, then pernicious to the kingdome of Scotland. Seton in that he was a friend of Lenox was commanded to stay at Barwicke, till the queens pleasure was further knowne ; where after some few dayes abode, without any entertainments of honour, returned home. Where-upon his majesty grew incenced, and wholly dedicated to anger, expostulated by letters that grievous affront offered to his ambassadours, first to Alexander Hume, now to Sir John Seton, he grievously accused Randolph for his flight out of Scotland, complained that Archibald Douglas of Whitingham impeached for the kings death, his conscience bearing him witnesse of the guilt, was resident publicly in the court of England, desiring that hee might be apprehended and delivered according to the league.

The queens highnesse, to wash away all the dirt of these criminations, answered, that Randolph was one of an unstained fame, whose fidelity was perspicuous in

every action; that hee was desirous of publike quiet in Scotland, having often both by hand and brain, action and counsell, beene their adjutor, and now he was ready to render an account of his ill-managed embassage before her counsell, if any thing were objected. As for Archibald Douglas, suspected for the late conspiracy, his abode in the court was only untill enquiry was made after those injected crimes; but in the future he should have no estimate of honour or imployment, although he remained in England, being of great use to the queen and counsell, carrying himselfe as ambassadour from the King of Scots, without any mandate or letters of trust, he set his wits to disturbe the weale-publike of Scotland.

Much about this time James Steuart constituted guardian over the Earle of Arrane, by reason of his impotency of minde, (which I commemorated before) being not satiated with the title of guardian, and enjoying many commodities thereby, he was, (as if led by a deity) created Earl of Arrane, and confirmed by an Act of Parliament to the ruine of that family, contrary to the lawes and customes of their predecessors: And this omen Morton applyes to his owne ruine, remembring the old prophesie, that hee must take heed of the Earle of Arrane; nor was his supposition meere chimeraes, for the first act of this new earle was the death of Morton: and here we may contemplate the variety of casualties incident to him, as also the sports of fortune on him, now smiling, presently frowning, so that hee seemed to be tossed 'twixt the rackets of honour and disgrace.

Morton being conducted speedily by the Earles of Arrane and Montross, with a great traine of armed men, and two troops of horse unto Edenborough, there to be tryed before the peers, who were assembled to heare him plead the matter, the day of his tryall appearing, and ac-

according to the ancient custome of the kingdome: there was a place of judicature constituted, where Arguile chancellor, Montrosse chiefe justice for that day, and divers others of the nobility, sate upon the bench; the prisoner being produced from custody, excepted against Arguile, in that he was no competent judge, by reason of enmity, and irreconcilable hatred, against the Lord Seton, by reason of inveterate envy, and against Vaughton, for suspected pretences against the king and state. But exceptions against judges were not granted. Morton openly professed, that the proceedings were disorderly, and without president of predecessors. The Earle of Arrane and Robert Chreton his majesties advocate, even to the height of envy prosecuted the crime of regicide against him vehemently, because he had consented to the murdering of the king, and subscribed to the crime in love to Bothwell; But besides these bitter and many percunctations of Arrane, the kings advocate violently urgeth a manifest signed by Mortons owne hand, urging likewise the hatred hee bore the state after his relinquishing the regency.

Morton after a large commemoration of his offices for the publique, proceeds to wash his hands of that most horrid murther, not palliating it with fraudulency: for seeing he could not deny the proofes against him, that hee was privy to the murther revealed by Bothwell, being conscious of the detestable parricide: hee was condemned by the suffrages of the nobility, and judgement was denounced against him by Montrosse, who was invested with supream authority for that time: because as the accuser pertinaciously affirmed he did not prosecute the law against Archibald Douglas of Wittingham, his favorite, and that being conscious to that detestable fact revealed by Bothwell to him, he kept in silence, he was removed

to prison, having a guard set over him, who were receivers of his words, sighs, and looks, in that he was condemned he kept silence, his expectation of his last houre was firme : so that having received that celestiall manna of the sacrament, his thoughts were conversant about eternity and immortall life. Those ministers that were there present, desired him to give his soul the wings of courage, seeing that death was not to be lamented, whose consequence was immortality. He not at all daunted, knowing the lease of his life was almost expired, detests those sublunaries, fixing his anchor of hope upon the shore of eternall safety: In the interim, the Earl of Arran inhumanely denounceth his last necessity to approach, and desires him that ere he departed out of this pilgrimage, to subscribe a confession of his criminations : but Mortons conversation being with heaven, having detruded all secular disturbances, exclaimed that he was interrupted by inhumane and wicked words. He was attentive to the ministers admonitions going undauntedly to the market-place of Edenborough where he was to suffer ; great was the concourse of people : and he not to be moved by the present feare of death, affected candor of speech and countenance, that his innocence in this paracide neither yet would he deny or dissemble, that Bothwell had solicited him for subscription to that truculent fact, but it was alwayes a bug-beare and terrour to his thoughts : as for that hee did not give light to the crime, it was because hee was overswayed by feare of Bothwell's strong hand : and from further progresse herein, he converted his speech to his God in meditated and composed prayers, not being unmindful of his majesties safety, the kingdomes tranquility, and the peoples incalumnity : having implored the most mercifull Fathers mercy, he shut up his prayers, desiring the executioner to do his office. While he valiantly laid down his neck upon the

fatall blocke, to the unspeakable sorrow of all, his head was parted from his body in the presence of that greedy spectator his enemy Farnihurst: the head instead of its body was exalted to stand upon the common hal; his body was interred without any solemnity of funerall.

Thus you have the last end of Morton, the last Prorex of Scotland: He had been, for naturall prudency, moderation, integrity, and industry, celebrated by the trumpet of fame, if his extorting of money had not stained his magistracie, and that act of delivering up for a sum of money Piercy Earl of Northumberland who fled into Scotland, as if he had thirsted for his blood.

Cruell Arran, not satiated with the punishment of so great a peer, bended his nerves to eradicate the splendor of the Douglasses, that his power might be established, he exterminated the Earl of Angus into England, and hayled many servants (whose fidelity to their lords were permanent) unto punishment and torture; the consequences of Mortons death were domestical dissentions, clandestine grudges, and calamities: in fine the death of the author of his death, the Earl of Arran. The next day John Bine one of Archibald Douglas servants was delivered to the truculency of a rope, in that hee participated in the kings death; Dalkeith and Aberdower (the late palaces and possessions of the Earle of Morton) unfortunate gifts were conferred upon Lenox, nor with much better successe John Maxwell had the honour and title of Earl of Morton, in that it continued not long in that family.

And now that turbulent Earl of Arran seeing his corrivall removed, and the opposite faction laid in the dust, ascended from avarice and cruelty to wallow in the mire of lust, contracting himselfe in a filthy marriege with Elizabeth Stuart the daughter of the Earl of Athol, who in her childish yeares being conjoynd in a nuptiall tye to

the Earl of March, debased her selfe by adultery with this new earl for hope of domination, who did more fragrantly and constantly lust after her then her husband did. And now seeing hee was fortunes favourite, nothing lesse would satisfie her, then to be his wife and fellow ruler, striving to obtaine of the ecclesiasticall judges a divorce under the pretext of impotency. No time was intermitted for the divorce, nor many days had not appeared in the heavens ere the strife was determined, and the just and legitimate matrimony was dissolved. Thus shee that was the late bedfellow of Lenox, being divorst from his most noble sheets, her belly declaring her pregnancy, without delay took upon her the title of Countesse of Arran, a very bad president; thus Arran was in one and the same day husband and father of an infant begot by an adulterous act, in anothers matrimony, borne in his owne: hence arise all those vulgar clamours of her immodesty, wantonnesse, luxury, and lascivious behaviour, not so much as her followers but detested her incivility and his insolency, desiring her to consider this unpresidented act, from whom she had divorst herselfe; was it not from one of the blood royall, and his majesties intimate? and was shee not branded thereby with dishonesty? But her heart was too obdurate to relent into teares, the woman being of an insolent and proud spirit, desirous of a potent husband, passed without those bounds nature had prefixed, her sex requireth, and custome approves of: shee frequented vaulting flowers, usurped mens exercitations. But I must stay my pen, lest these narrations intended for the publique good, may occasion private contumelies, by reason of the similitude of casualties.

When the state was thus overclouded, a parliament was summoned to appear at Edenborough for the administration of publique affaires, where Obegny, whom nobility,

fame, and authority had made great, ascended to the highest seat of favour and honour, and his creation of Duke of Lenox was confirmed by the parliament: He was arrived at that height of potency, as to govern things by his word: William Ruthen treasurer was created Earl of Gowre, James Stuart Earl of Arran, John Maxwell Earl of Morton, and Robert Stuart Earl of Orkney: it was likewise adjudged that the Douglasses should be proclaimed rebels, banished, and their goods confiscated; thus that family who had deserved well of their countrey, was detrudded, and cut downe by the anger and hatred of this new erected man: their enemies set their inventions to coyne against them, and their tongues to threaten, that this popular name might become odious to the vulgar.

The king seeing his exchequer at an ebb, and the kingdom in poverty, according to an act of parliament then made, revoked the donations of his patrimony, seized on the confiscations of mens estates, and reaped the first fruits, appointing limits for immoderate donations and graunts. He established many lawes commodious for the publique, and composed those private dissensions twixt the Gordones and Forboses, which arose about their bounders. The tenths and thirds of ecclesiasticall livings were employed for the sustentation of the ministry, and other pious offices, the revenues of the monasteries were confiscated, and the rents brought into the exchequer to support the publique treasury.

By this time behold the Earle of Arran ready to burst with the too much indulgency of Lady Fortune, nay degenerating even from civility, so that hee rejected the Duke of Lenox society, bending his strength to undermine him, an act not a little offensive to the prince; the first alination of affections arose from an affront offered unto one of the dukes retinue by the Lord Seton and his son

John. His majestie beholding what a Charibdis his kinsman the duke sayled in, was so far enraged as to dimove Arran from being captaine of the guard, commanding him not to approach the court or the kings presence, nor think of being received into favor, unles he first submitted: he departed from the court to Kennel, and there enjoyed the pleasures of his possessiōs, untill some happy mediators stood in the gap to make a reconciliation. Thus, after a short divorce, the dukes minde, by the intercession of friends, was allayed, and an act of oblivion signed by both parties, and a reconciliation of favour made, which from that day was inviolably observed, both endeavouring with an equall vertuous impetuosity to lay low their antagonists strength, both associated ther heads to keep their withstanders under. The young noble Earl of Mar, who was suspected to be a favourite of the Douglasses, was removed from the court; but his return was obtained by his mother, who had obtained the crowne of many gray haire, and a continued power with his majesty, both by her grave behaviour, and great care had over his childe-hood, which shee transacted with all the fidelity of an honest breast.

The king well knowing that religion was in her waine, that the title and honour of king was at a lesse command, enjoyned John Crage, his majesties chaplain, to set forth a confession of faith in the English tongue, which contained the doctrines of Christian religion, concerning God, the creation, originall sin, the law, grace, the incarnation of the Word, the hypostaticall union, Christs passion, resurrection, ascencion, the Holy Ghost, the church, scriptures, fathers, counsels, sacraments, and controverted questions in divinity. The king established it by parliament, who having concorded in a forme of administring the sacraments, all subscribed to the doctrine and disci-

pline of the Church of Scotland, protesting that they would observe and defend it with all their endeavours against oppositions. The king and his followers first subscribed; next he desired the nobles and citizens to subscribe, withall exhorting them to embrace the true religion, relieve the poor, have an eye to the succourlesse and fatherless: Hee admonished the ministry not to intermedle with state affaires, but to preach the gospell, administer the sacraments, instruct the ignorant, call back the wicked from their wayes of errour, and the scandalous from their wallowing in filthinesse, to draw the people from luxurious living and licentiousnesse unto continency, and observation of the churches discipline, to make up the breaches of civil dissention amongst the nobility, and to be carefull of the churches peace, dignity, and safety. And, lastly, to excite the people if no otherwayes, yet by a strict discipline to follow vertue and obedience.

The authority of the ministerial function was unanimously consented to by parliament, and that no other government ecclesiastical should be set up in Scotland, save such as they agreed upon; and that all those dayes whom antiquity had set apart for holy remembrances were not to be kept holy, or any celebration in apparel or solemn rites were to be used thereon.

The ministers having got such a large commission into their hands, begun to attempt greater matters, as to pull downe the prelatieall dignity. For in the synod held at Glasgow, where Robert Ponton was prolocutor, the episcopall authority was abrogated, Patricke Adamson, arch-bishop of Saint Andrews, James Bode, arch-bishop of Glasgow, David Cunningham, bishop of Aberdeen, Nigell Cambell, who was the pearl of that function, bishop of Arg. and many other superintendants, whose vertue and learning had given them the lustre of fame:

these were stiffe defenders of the prelates cause and dignity, 'gainst the faction and potency of such ministers, who sought by their maliciousnesse towards episcopacy to get applause, labouring with wind and tide to root out bishops. These men in a full house by suffrages and favour prevailed, so that it was concluded by votes to abrogate the prelates authority, which David Lindsay, afterwards installed bishop of Rosse, desired to adjourn to the next convention : his desires were frustrate, and himselve reviled by many, who protested his words were intollerable burthens to their consciences, and himselve not worthy to beare any ecclesiasticall office, who patronized the most corrupt prelaticall function : many there were, who lest they might seeme to strive against the streame, went downe with their tide to eradicate the prelaticall splendor.

Fame slept not till she had acquainted his majestie with the synods proceedings herein, and Lindseyes intercession, the king having first consulted with his counsell (who hee knew were most eminent both for wisdom and favour with the people) what would be most convenient to the kingdomes present condition ; and being displeased at the affronts and injuries offered to the bishops, declared by a messenger, that their proceedings were every way displeasing unto him, and that he would apply a medicament in due time.

But they absolutely denied that they were ready to embrace any change in their opinions, declaring that the regency of church affaires by the synods decree was at their disposall ; and they having finished their work, begged of his majesty to let his proclamations issue forth concerning the discipline of the church, giving his royall assent to the synods determinations. But the king crushed their desires by a denyall ; because he fore-saw a great

cloud of troubles to come from that act of abrogating episcopacy, and erecting by his command the presbyteriall discipline : he therefore hoped that they would, nay, admonished them to desist from prosecuting their intempestuous desires, and not to abuse the power put into their hands to the kingdomes destruction, by framing things after the modell of their wills, or strive the diruating the prelates authority.

Thus the established discipline of the church runne with a more powerfull streame amongst the nobility, magistracy, and ignorant vulgar, though lesse favour with the king, by reason of their pride and arrogancy, who had not onely by his power put life into their semi-mortified authority, but also established their potency over the people.

But whilst these things were upon the stage, his majesty ceased not to adde vertue and knowledge to those his naturall dowries, adorning the cabinet of his breast with true orientall pearle, sporting himselfe with riding the great horse, tilting, and hunting.

The yeare drawing to a period, turbulent Horiferous even wel-nigh overturned the arke of the church ; for James Boyd having taken up his residence with the wormes, resigned his chaire of Glascow to his successor ; the strife thereabout was so vehement, that it had almost brought the kingdome into a fit of distraction : in conclusion, Robert Montgomery, preacher at Sterlin, who was both an eye-soare to the clergy and commons, ascended to the episcopall chaire, by the Duke of Lennox ayde : yet at the instigation of some friends, more looking upon their own utility than his dignity, lent him his hand to get the mitre, upon the contract that the title and 1000 pounds annually should be involved upon him, not looking to reap any further fruit of his benefice : The report hereof

tooke the wings of the winde, and arrived at the ignorant multitude, and at the eares of some young grammarians, who by their orations blew up those coales of contention to a great flame of envy amongst the nobles and commons. Whereupon the episcopall antagonists take courage to spit infamous granadoes from the pulpit in the face of Montgomery, contaminating his whole life, as if unworthy to beare rule in the church.

But the privy counsell calling these men to an account, reproved them with great bitterness of speech, giving them to understand, that an election having the kings consent, ought to be obeyed, and that for the good and profit of the weale-publike: Likewise they declared, that Montgomery was commanded to succeed by that authority devolved upon his majesty: they therefore gave warning from any further processe in such mollestations, but quietly to acknowledge them their diocesians whom his majesty should assigne. Thus did the state stand for the present: but the fiery spirits of the ministers could not be extinguished; what the issue will be, the next yeare will declare.

[Before proceeding to notice the editions of the "True Accompt" of the Baptism of Prince Henry, a reprint of which concludes the first volume of "Scotia Rediviva," it may not be improper to observe, that King James was, on the 24th November 1589, married to Anne, second daughter of Frederick II. King of Denmark. This princess was the mother of Henry Frederick; and we learn from Ames, (vol. iii. p. 1383), that in 1600, there was printed at London by Thomas Creed, "A True Report of the most tryumphant and ryall accomplishment of the baptisme of the most excellent, right high, and mighty prince, Henry Frederick, by the grace of God, Prince of Wales, as it was solemnised, August 30, 1594." He adds in a note :—"It had been printed in Scotch at Edinburgh by Rob. Waldegrave, 1594; wherein the prince is rightly styled Prince of Scotland. His being in this edition styled Prince of Wales, evinces that it was not printed till after King James came to the crown of England." In 1594, Johane Butter, widow of Thomas Butter, stationer, London, had license for "A true report of the baptisme of the prince in Scotland :—The tryumphant and princelie newe ballad, declaring the royaltie and magnificence performed at the baptisme of the Prince of Scotland."—[*Vide Ames, p. 1349.*]—We have endeavoured in vain to obtain a sight of these editions; we could not even procure any edition of an earlier date than that from which we print; but it is presumed, that it gives faithfully the text of the London edition of 1603, which, as Ames takes no notice of an edition of that date, we suppose must be the same as that mentioned above, as having been printed by Thomas Creed in 1600. Another edition was printed at Edinburgh by John Reid, younger, in 1703, with a title-page, purporting to be an exact copy of the London edition of 1603; but on comparing it with the one from which we print, we find the orthography modernised throughout: it has the following note from the publisher to the reader :—"Having procured a copy of the relation of the solemnity and splendour of the baptism of Prince HENRY, whose singular virtues and accomplishments occasioned so great lamentations at his death, that it is a proverb to this day, *did not good Prince Henry die*; used as a mitigation of sorrow to these who bemoan the loss of their friends and relations. I thought it would not be unacceptable to the publick at this time, seing we have therein in some measure a view of the antient glory and splendour of this kingdom, and in what estimation it was had with neighbouring countries, tho ever since the union of the crowns, our greatness has been declining, till at length we are come to a wonderfull low ebb, which it's hop'd the parliament will now effectually consider, and do something that may retrieve our ancient power and glory, as (thanks to God) many shew great propensity to do."

We may add, that what is given in parenthesis in our title-page to the tract, is copied from the edition of 1703.

The "True Accompt" was reprinted by the Jacobites in 1745, with the preface to the edition of 1687.—Edinburgh, printed and sold in the Swan Close for Philander, 8vo. 16 pages.—There have also been later editions published, which are not deserving of notice.]

A
TRUE ACCOMPT

OF THE
MOST TRIUMPHANT, AND ROYAL ACCOMPLISHMENT

OF THE
BAPTISM

OF
THE MOST EXCELLENT,
RIGHT HIGH, AND MIGHTY PRINCE,
HENRY FREDERICK,

BY THE GRACE OF GOD PRINCE OF SCOTLAND,
AND NOW PRINCE OF WALES.

AS IT WAS SOLEMNIZED THE 30: DAY OF AUGUST 1594.

EXACTLY REPRINTED, CONFORM TO THE OLD COPY,
PRINTED IN LONDON, IN THE YEAR 1603.

(Whereby a brief View of the Greatness and Splendour of the Kingdom is shown, as well as what Figure a great many Antient Families then made, as doth appear by the Recital of the Names of the Lords and Barrons present at the Solemnity.)

EDINBURGH:

PRINTED BY JOHN REID, FOR ALEXANDER OGSTON;
AND SOLD IN THE PARLIAMENT CLOSS.

1687.

THE BOOKSELLER TO THE READER.

THIS little piece having casually fallen in my hands, formerly printed at London, in the year 1603: which contains a succinct account of the solemnity of the birth and baptism of a royal prince of this kingdom, a prince so much lamented upon his deceass in the flower of his age, that when the women in Scotland, even unto this day, do lament the death of their dearest children, to comfort them, it is ordinarily said, and is past in a proverb, *Did not good Prince Henry die?* In which the genius, wit, learning, and delicacy of the Scots court at so great a distance of time is epitomized: And if any doubt the matter of fact related, they may be fully convinced by several pieces of the workmanship used upon that signal occasion, and particularly the ship yet exstant, which I have lately seen in the apartment next to the great hall, in the Castle of Stirling, where that triumphant and royal intertainment was kept; a greater and more magnificent upon such an occasion is not recorded to have been performed by any court at that time in Christendom. And lest such a piece of curiosity and antiquity, now long out of print, might be lost, I thought it not improper to revive it by this new impression, for the satisfaction and diversion of those that love the antiquities of this kingdom.

A

TRUE ACCOMPT

OF THE

BAPTISM OF THE PRINCE OF SCOTLAND.

THE noble and most potent Prince of Scotland was born in the castle of Striuling, vpon Tuesday, the 19 day of February 1594, vpon which occasion the kings majestie, sent for the nobles of his land, and to all the capitall Burrows thereof, to haue their aduise, how he should proceed for the dve solemnization of his royal baptism, and what princes he should send too. When they were all compeired with great diligence and goodwill, he proponed vnto them, that it was necessary, to direct out ambassadours to France, England, Denmarke, Low Countries, the Duke of Brunswicke his brother in law, and to the Duke of Magdelburgh, the queenes majesties Grandfather, and to such other princes as should be thought expedient. Likewise, he thought the castle of Striuling, the most convenient place for the residence of this most noble and mightie prince, in respect that he was born there: As also, it was necessary, that sufficient preparation might be made for the ambassadours that should be invited to come, for honour of the crown and countrey. And besides all this, because the chappell royall was rui-

nous, and too little, concluded, that the old chappell should be utterly rased, and a new erected in the same place, that should be more large, long and glorious, to entertain the great number of straungers expected. These propositions at length considered, they all with a free voluntarie deliberation, graunted vnto his majestie, the summe of an hundred thousand pounds money of Scotland. Then was there ambassadors elected, to pass in France, England, Denmarke, the Lowe-Countries, and other places before mentioned, who were all dispatched with such expedition, and their legacies took such wished effect: That first there came two famous men from the King of Denmarke, the one Christianus Bernekow, the other Stenio Bille, these came to Leyth the 16. of July. The next day after them, came Adamus Crusius, ambassadour for the Duke of Brunswick, and Joachimus Besseutius ambassadour for the Duke of Magdelburgh, who is grand father to the noble Princesse Anne, by the grace of God Queene of Scotland. Thirdly, the 3. day of August, there came ambassadors from the States of Holland and Zeland, the Barron of Braderod, and the treasurer of Zeland, called Jacobus Falkius.

There was also a noble man directed from England, to wit, the Earle of Cumberland, who even when he had prepared himself richly, and honourably in all respects for his voyage to come into Scotland, and divers noble-men and gentlemen of renown, prepared and commanded for his honourable conuoy, it pleased God to wisit him with sickness: And in that respect an other noble man was chosen to supply his place, which was the Earle of Sussex, &c. And he in consideration of his short and unexpected advertisement, made such diligence in his voyage, and magnificence for his own person and honourable conuoy, as was thought rare and rich by all men: whereby it fell

out, that betwixt the sickness of the one noble man, and the hastie preparation of the other, the time was so farre spent, that the very prefixt dayes of the baptisme were sundrie times delayed. And because the ambassadour of England was so long a comming: And the ambassadours of Denmarke, Brunswicke and Magdelburgh, were feared to be hindred in their voyage by the sea, by reason of the neare approaching of winter: They desired daily of the kings maiestie, dureing their remaining in Edenburgh, to have some prefixed day to be nominate and certainly kept, that immediately thereafter, they might be dispatched, which he granted at the last, although he had diuers great impediments to the contrary. The first was, because the chappell royall and castle of Striuling, was not fully compleit in all such necessities, as was requisite, although he had the supply of the greatest number of artificers in the whole country, conuened there of all crafts for that seruice, and his maiesties owne person dayly ouerseer, with large and liberall payment: but the chiefest cause was the long absence of an ambassadour from England, which his maiestie greatly respected for many causes: And last of all, expecting that some ambassadour should have come from France, which fell not out as was looked for. But when the ambassadour was come from England to Edenburgh, foorthwith, his maiestie dispatched one of the gentlemen of his highnes chalmer, to request him to re-
 paire towards Striuling the next day with all possible diligence, (which was the 28. day of August) because he would haue had the baptisme administred the day following. But neither were the propines sent by the Queen of England, neither her ambassadours owne cariages as then come: Therefore the baptisme was delayed vntill the 30. day of August, as ye shall hear particularly hereafter.

But in the meane time, it is to be understood, that all these noble ambassadours before expressed, were honourably sustained upon the kings maiesties owne proper costes, during the whole time of their residence in Scotland, saue only the ambassadour of England, whose whole expences were defrayed by his soveraigne the Queen of England. And because the rest of the ambassadours were repaired to Striuling by his majesties direction, long before the coming of the English ambassadour, his highness bestowed the time with them in magnifiquie banketting, revelling, and dayly hunting with great honour.

The kings maiestie, purposing further to decore by magnificence this action, committed the charge thereof to the Lord of Lendores, and M. William Fowler, who by their trauels, diligence, and invention, brought it to that perfection, which the shortnesse of time and other considerations could permit. So they having consulted together, concluded that those exercises that were to be vsed for decoration of that solemnitie, were to be deuided both in field pastimes, with martiall and heroicall exploits, and in household, with rare shewes and singular inuentions.

The field to be used at two seuerall daies: the first to be of three Turkes, three Christian knights of Malta, three Amazones, and three Moores. But by reason of the absence, or at the least, the uncertain presence of the three last gentlemen, who should haue sustained these personages, it was thought good, that the number of that maske should consist of nine actors, nine pages, and nine lackies, which comming from sundry parts and at diuers times, together with the diversitie of their apparel, should bring some noveltie to the beholders.

The place most expedient for this action, was the valey, neare the castle, which being prepared for that purpose, both with carier and scaffold, after the comming of the

queenes majestie, with her honourable and gallant ladies, together with the honorable ambassadors, the field being beset by the braue yonkers of Edinburgh, with their hagg-butes, during the whole time of that pastime.

Then three Christians entered the field with sound of trumpet, who were the kings maiestie, the Earle of Mar, and Thomas Erskine, (gentleman of his maiesties chalmer) who made vp this number.

A little after followed, three appparelled lyke Turkes, very gorgeously attired: and these were the Duke of Lennox, the Lord Home, and Syr Robert Ker of Cesfurde knight.

Last of all, came in three Amazones in womens attire, very sumptuously clad, and these were the Lord of Len-dores, the Lord of Barclewch, and the Abbot of Holy roote house. So all these persons being present, and at their entrie, making their reuerence to the Queenes maiestie, ambassadours and ladies, having their pages ryding upon their led horse, and on their left armes, bearing their maisters *imprese* or deuice.

The kings maiesties was a lyons head with open eyes, which signifieth after a mistique and hierogliphique sence, fortitude and vigilancie: the words were, *Timeat et primus et vltimus orbis*. The second was a dogs collar, all beset with yron pikes, the wordes were these, *Offendit et defendit*. The third of that Christian army, was a wind-mil, with her spokes unmoving, windes unblowing on every side, with these words, *Ni sperat immota*.

The second faction did carie these: A hart half in fire, and half in frost: on the one part cupids torch, and on the other Iupiters thunder, with these words *Hinc amor, inde metus*. The other page a Zodiacke, and in the same, the moone farre opposit to the sunne, with these words: *Quo remotior, lucidior*. That is to say, the farther the

fairer. The third of this partie, caried painted, foure coach wheeles, the hindmost following the foremost, and yet never overtaking them, with these words, *Quo magis insequor.*

The last three pages, bare in their targets, these impresses following, a crown, an eye, and a portcullis: the crown betokening the power of God, the eye his providence, and the portcullis his protection, with these words, which were composed in *Anagrame*, of *Walterus Scotus*, the laird of Bacleughs name, *Clausus tutus ero.* The second page of this party, carried on his targe, the portraiture of an hand, holding an eill by the tail, alluding to the uncertainty of persons, or of times, with these words, *Vt frustra, sic patienter.* The last was this, a fire in sight of the sun, burning, and not perceived, with this sentence, *Oblector lumine victus.*

And euery lackie, carying in his hand his maisters launce. They began their pastime by running at the ring and gloue: the lawes whereof were these.

1 First, that all the persons of this pastime compeare masked, and in such order as they come into the field, so to run out all their courses. 2 Secondly, that none vse any other ring, but that which is put vp: and use no other launce, but that which they have brought for themselves. 3 Thirdly, he that twice touches the ring, or stirres it, winneth as much if he caried away the ring. 4 Fourthly, he that lets his launce fall out of his hand, is depriued of all the rest of his courses. 5 Fiftly, that euery one run with loose rains, and with as much speed as his horse hath. 6 Sixtly, that none after his race, in vptaking of his horse, lay his launce upon his shoulder, vnder the pain of losse of that which he hath done in his course. 7 Seventhly, he that carrieth not his launce vnder his arme, loseth his course. 8 Eightly, that none until his three

courses be ended, chaunge his horse, if he be not hurt, or vpon some other consideration moved to change him. These lawes being seen and approved by the actors, the queenes majestie signified vnto them, that he who did run best, should have for his rewarde, a faire and a rich ring of diamonds: and he also, who on that same side, had best fortune in running, he should be acknowledged with an other as fair as the first. The proof hereof being made, the victorie fell to the Duke of Lennox, who bringing it to his side and party, had the praise and prise adiudged to himself. Thus the first dayes pastime was ended, with great contentment to the beholders, and commendation of the persons enterprisers.

The second dayes pastime was extended, by reason that the artisans were imployed in other businesse, who should haue followed forth that inuention given them: And seeing the grace of that exercise consisted in embosserie, and the craftes-men apt for the same, otherwise and necessarily busied, it was left off: Which, if it had been brought to effect, this countrey had not seen, nor practised a more rarer: for what by the brauery and strange apparell of the persons themselves, and by the diuers shapes of the beasts that should have bene born and brought there in sight, had been commendable and wonderfull: by reason that such beastes, as lyon, elephant, hart, vnicorne, and the griphon, together with the camel, hydre, crocadile, and dragon, (carrying their riders) had carried also with it by the newnes of that inuention, great contentment and commendation of that exercise. But I say, some arising lets impeshed this inuention: and all things were cast off, that might have farther decored this solemnity, through other vrgent occasions.

And when all the ambassadours were conuened together, and all necessary materials readie, the chappel royal of

the castle of Striuling was richly hung with costly tapestries: And at the north-east end of the same, a royall seat of estate prepared for the kings maiestie: And on his right hand, was set a faire wide chaire, with the due ornaments pertaining thereto, ouer which was set the armes of the King of France.

Next therevnto was a princely trauers of crimson taffeta, for the ambassadour of England: and ouer his head the armes of England: on the desk before him lay a cushion of red veluot: There stood attending on him two gentlemen vshers, appointed by the Queene of England for that present seruice.

Next unto him sat M. Robert Bowes, Ambassadour ordinary for the Queene of England: On the desk before him was laid a cloth of purple veluote, and a cushion sutable therevnto.

Then sat the ambassadour of the noble prince Henricus Iulius, Duke of Brunswick, and before him on the desk was laid a cloth of green veluete, with a cushen of the same: and ouer his head the arms of his prince.

Next unto him sate the ambassadours of the Lowe Countries, with a long fair cloth spred on the desk before them of blewe veluet and two cushions sutable therevnto, and ouer their heads the arms of their countries.

On the kings left hand, was placed nearest his maiestie, the two ambassadours of Denmark, with a large broad cloth spred on the desk before them of purple veluet, and the arms of Denmark ouer their heads.

Next vnto them sate the ambassadour of the noble Prince Vdalricus, Duke of Magdelburgh, with his princes arms ouer his head.

In the midst of the chappell royall within the partition, where the kings maiestie, the ambassadours, and prince with his conuoy were placed, there was a new pulpit

erected : 'The same was richly hung with cloth of gold : All the pauement within this partition was prince-like laid with fine tapestry.

Vnder the pulpit was another deske, wherein sate in the midst, M. David Cuninghame, Bishop of Abirdene, M. David Lindesay, Minister of Leyth, and John Duncanson, one of the ordinary ministers to the kings maiestie : Before whome was set a table, couered with yealow uelvet.

And when all things were in readines, as was requisite, there was placed a hundred hagbutters (being onely the yonkers of Edinburgh, brauely apparelled) in order, betwixt the princes vtter chalmer doore, and the entry to the chappell royall, on both the sides of the passage.

Then the kings maiestie, with his nobles and counselors attending on him, entred the chappell, and there sat downe in his royall seate of estate.

All the ambassadours likewise were sent for, and conuoyed to the princes chalmer of presence, where the prince was lying on his bed of estate, richly decored, and wrought with brodered worke, containing the story of Hercules and his trauels.

This bed was erected on a platforme, very artificially, with a foote pace of three degrees ascending to it : The degrees being couered with tapestrie all wrought with golde, and a large cloth of lawne, couering both the bed and the degrees, which reached forth a great space over the flore.

Then the old Countesse of Mar, with reuerence past to the bed, she tooke vp the prince, and deliuered him to the Duke of Lennox, who presently rendred him likewise to the ambassador of England, to be borne to the chappell royall.

The maister of the ceremonies, addressing himself to a table in the said chalmer, curiously ordered, whereon stood those ornaments of honor which were to be born to

the chappell before the prince, with due reuerence deliuered them to certaine noble men, according to the order appointed by his maiestie for the bearing thereof.

In like manner, the princes robe-royall, being of purple velvete very richly set with pearle, was delivered to the Duke of Lennox, who put the same about the prince : the traine whereof was borne vp by the Lord Sinclair, and the Lord Vrchart. Then they remoued themselues to the vtter chancel, where there was a fair high pale made fouresquare, of crimson velvete attending which was laid on with rich pasments, and fringed with gold. This pale was sustained by four worshipful barons ; The Laird of Bacleugh, the Constable of Dundee, Sir Robert Ker of Cessford knight, and the Laird of Traquhair. Vnder the which pale were the embassadours of England, Robert Earl of Sussex, carrying the prince in his armes, and M. Robert Bowes, ordinary ambassador for England, assisting him. Next to them was the Duke of Lennox. About the pale were the embassadours of Denmark, Magdelburgh, Brunswick, and the Estates. There followed the old Countesse of Mar, Mistris Bowes, diverse ladies of honour, with the Mistresse Nurse.

Then the trumpets sounding melodiously before the prince and his conuoy, went forward : Lyon king of armes, and the heraulds his brethren with their coat-armours, in goodly order following.

Next followed the princes honors, borne by these noble men : the Lord Sempill carrying a laver of water ; the Lorde Seton a fair basen : the Lorde Levingston a towel, and the Lorde Home a low crowne competent for a duke, richly set with diamonds, sapphires, rubies, and emeralds : who approaching neare the pulpit, where these honors were receiued from them, by the maister of the ceremonies, and by him placed on the table before

the pulpit: the noblemen retyring backe to their appointed places.

Lastly, the pale was carried in before the pulpit, where the ambassador of England rendered the prince to the Duke of Lennox, who immediately deliuered him to the old Countesse of Mar, and she consequently to the Mistrresse Nurse. And all the ambassadors were then set, in such order of places, as the demonstration of their armories, gave notice.

Without the partition, were ornate fourmes, all couered with greene, wherevpon were placed the gentlemen of England, Denmarke, Almaine, Flanders and Scotland. And as all men were thus competently placed, and vniuersall silence made, entered M. Patrik Galloway, one of his maiesties ordinary preachers into the pulpit, who learnedly and godly entreated vpon the text of the 21. of Genesis. Which being done, the Bishop of Aberdene stood vp in his seate, and taught vpon the sacrament of baptisme, first in the vulgar tongue, and next in the Latine, to the end all men might generally vnderstand. This done, the prouost and prebends of the chappel royall, did sing the 21. psalme of Dauid, according to the art of musique, to the great delectation of the noble auditory.

Then they proceeded to the action. The king arose and came towards the pulpit. The ambassadours followed in their order. The barons that carried the pale aboue the prince, moued towards the pulpit: the Duke of Lennox receiued the prince from the Countesse of Mar, and deliuered him to the hands of the Earle of Sussex, ambassadour for England: where hee was named by all their consents, *FREDERIKE HENRY, HENRY FREDE-RIKE*, and so baptized, in the name of the Father, Sonne, and Holy Ghost, by the said names.

This being done, Lyon king of armes with a loude voice repeates these names thrise ouer ; and then after him the rest of his brethren herauldes, with trumpets sounding, confirmed the same.

Then the kings majestie, ambassadours, and all removing to their places : the English ambassadour alone, withdrawing himself on the one side was mette and attended on by two groomes, who humbly on their knees, the one presenting a large rich basen, the other a sutable lauar, repleat with sweete water, wherewith the ambassadour washed ; a gentleman sewer with humble reverence presenting him a faire towell, wherewith he dried his hands, and so forthwith returned to his place.

This being done, the bishop ascended to the pulpitte, where, after that hee had deliuered in verse a certaine praise and commendation of the prince, then hee conuered the rest of his Latine oration in prose to the ambassadours, euery one in particular, beginning at the ambassadour of England, and so continuing with the rest ; wherein he made mention of the chronology of each of these princes, and recited the proximitie, and nearenesse of bloud, that they had with Scotland. Concluding his oration with exhortation and thanksgiving to God for that good occasion, and prosperous assembly.

In conclusion, the blessing being given, Lyon king of armes, cryed with a loud voice, God save *FREDERICK HENRY*, and *HENRY FREDERICK*, by the grace of God, Prince of Scotland. The rest of the heraulds proclaimed the same at an open window of the chappell royall, with sound of trumpet.

Then the king, the prince, the ambassadors, the nobles, and ladies of honor, retyred forth of the chappel in such order as they entered, and repaired towards the kings hall ; during their passage, the cannons of the castle roared,

that therewith the earth trembled, and other smaller shot made their harmonie after their kinde.

In the kings hall the Duke of Lennox receiued the prince from the ambassador of England, and presented him to the kings maiestie, who addubbed him knight. He was touched with the spur by the Earl of Mar : thereafter the kings maiestie presented a ducall crowne on his head, and then was proclaimed by Lyon king of arms, The right excellent, high, and magnanime *FREDERIK HENRY, HENRY FREDERIK*, by the grace of God, Knight and Barron of Renfrew, Lord of the Yles, Earle of Carrike, Duke of Rosay, Prince and great Steward of Scotland.

These wordes were repeated by the heraulds with a loud voice, at an open window of the hall.

Then the prince was carried by the ambassadour of England, to his owne chalmer of presence, where the most rich and rare propynes were there presented.

Also, there were certain barons and gentlemen addubbed knights, whose names do follow in order as they were proclaimed. And first their oath.

THE OATH OF A KNIGHT.

1 *I shall fortifie and defend the true Christian religion, and Christs holy Euangel, now presently preached within this realme, to the vttermost of my power.*

2 *I shall be loyall and true to my soueraigne lord the kings maiestie, to all orders of chiuallrie, and to the noble office of armes.*

3 *I shall fortifie and defend iustice at my power, and that without fauour or feed.*

4 *I shall never flie from my soueraigne lord, the kings maiestie, nor from his highnesse lieuetenants in time of mellay and battell.*

5 *I shall defend my native realme from all allieners and strangers.*

6 *I shall defend the iust action and quarrel all of ladies of honor, of all true and friendles widowes, of orphants, and of maidens of good fame.*

7 *I shall do diligence whersoever I heare there is any murtherers, traytors, and maisterfull reauers, that oppresseth the kings lieges, and poore people, to bring them to the lawe at my power.*

8 *I shall maintain and uphold the noble estate of chivalrie, with horse, harnishe, and other knightly abillements; and shall helpe and succour them of the same order at my power, if they haue neede.*

9 *I shall enquire and seeke to have the knowledge and understanding of all the articles and points contained in the book of chivalry.*

All these premisses to observe, keep, and fulfil, I oblesse me, so help me my God, by my owne hand, so help me God, &c.

Sir William Stewart of Houstoun, knight.

Sir Robert Bruce of Clackmannan, knight.

Sir Iohn Boswell of Balmowtow, knight.

Sir Iames Schaw of Salquhy, knight.

Sir Iohn Murray of Ethilstoun, knight.

Sir William Mentéith of Kerse, knight.

Sir Alexander Fraser of Fraserburgh, knight.

Sir Iohn Lindesay of Dunrod, knight.

Sir George Leuingston of Ogilface, knight.

Sir Iames Forester of Torwood-head, knight.

Sir Andrew Balfoure of Strathour, knight.

Sir Walter Dundas of ouer Newlistoun, knight.

Sir Iohn Boswel of Glasemont, knight.

Sir George Elphingstoun of Blythwood, knight.

Sir William Leuingston of Darnechester, knight.

Sir Daid Meldrum of New hall, knight.

These names were proclaimed vpon the tarrase of the forefront of the castle, with sound of trumpets, and great quantity of diuers especes of gold and money cast ouer amongst the people.

These things being accomplished, the king and queenes maiesties, with the ambassadours, addressed themselues to the banket in the great hall, about eight of the clock at night. Then came Lyon king of arms, with his brethren the herauldes, and entred the hall before the king and queens meate, the trumpets sounding melodiously before them, with these noble men bearing office for the present.

The Earl of Mar,	}	Great Maister-houshold.
The Lord Fleming,		Great Maister-Vsher.

The Earl of Montroze,	}	Caruer.	}	For the K. M.
The Earl of Glencarne,		Copper.		
The Earl of Orkenay,		Sewer.		

The Lord Seton,	}	Caruer.	}	For the Queens M.
The Lord Hume,		Copper.		
The Lord Sempill,		Sewer.		

This delicate banquet beeing ordered with great abundance, the king, queene, and ambassadours, were placed all at one table, being formed of three parts, after a geometricall figure, in such sort, that euery one might haue a full sight of the other.

The king and queens maiesties were placed in the midst of the table, and on the kings right hand were set the English ambassadours, the Earl of Sussex, and M. Robert Bowes, next them sat the ambassadour from the Duke of Brunswick, and the ambassadour from the Duke of Magdelburgh.

On the kings left hand, next to the queenes maiestie, sate the ambassadour of Denmark, and ambassadours

from the states of Holland and Zeland: Betwixt every one of their seates was left a good space.

On the east and west side of the hall was placed two very long tables, where were set certain noble men, ladies of honour, and counsellors of Scotland, and with them, the noble men and gentlemen of England, Denmark, Almanie, and Flanders. And betwixt every noble man and gentleman stranger, was placed a lady of honour, or gentle woman.

Now, being thus in a very honourable and comely order set, and after a while, having well refreshed themselves with the first seruice, which was very sumptuous, there came into the sight of them all, a Black-Moore, drawing (as it seemed to the beholders) a triumphall chariot (and before it, the melodious noise of trumpets and howboyes), which chariot entred the hall, the motion of the whole frame (which was twelue foot long, and seuen foot broad) was so artificial within it selfe, that it appeared to be drawne in onely by the strength of a Moore, which was very richly attired, his traces were great chaines of pure gold.

Vpon this chariot was finely and artificially deuised a sumptuous couered table, decked with all sorts of exquisite delicates and dainties, of patisserie, frutages, and confections.

About the table were placed six gallant dames, who represented a silent comedie, three of them clothed in Argentine saten, and three in crimson saten: All these six garments were enriched with togue and tinsal of pure gold and siluer, euery one of them hauing a crowne or garland on their heads, very richly decked with feathers, pearles, and iewels, upon their loose haire, in *Antica forma*.

In the first front stood dame Ceres, with a sickle in

her right hand, and a handfull of corne in the other, and upon the outmost part of her thigh was written this sentence, *Fundent vberes omnia campi*, which is to say, the plenteous fields shall affoord all things.

Ouere against Ceres stood Fæcunditie, with some bushes of chesbolls, which, under an hieroglyphik sence, representeth broodines, with this deuise, *Fælix prole diuum*, and on the other side of her habite, *Crescant in mille*. The first importing that this country is blessed by the childe of the goddes, and the second alluding to the king and queenes maiesties, that their generations may grow into thousands.

Next, on the other side, was placed Faith, hauing in her hands a basen, and in the same two hands ioyned together, with this sentence, *Boni alumna coniugij*, The fortresse and nurse of a blessed marriage.

Over against Faith stood Concorde, with a golden tasse in her left hand, and the horne of aboundance in her right hand, with this sentence, *Plene beant te numina sinu*, The heauenly powers do blesse thee with a full bosome.

The next place was occupied by Liberalitie, who hauing in her right hand two crownes, and in her left two scepters, with this deuise, *Me comite plvra quam dabis, accipies*. That is to say, hauing me thy follower, thou shalt receive more than thou shalt giue.

And the last was Perseuerance, hauing in her right hand a staffe, and on her left shoulder an anchor, with this deuise, *Nec dubiæ res mutabunt, nec secunda*, Neither doubtfull nor more prosperous things shall change your state.

This chariot, which should haue been drawne in by a lyon (but because his presence might haue brought some feare to the nearest, or that the sight of the lights and

torches might haue commoued his tamenes), it was thought meete that the Moore should supply that roome: And so he in outwarde shewe preased to draw that forward, which by a secret conuoy was brought to the princes table, and the whole desert was deliuered by Ceres, Fœcunditie, Faith, Concord, Liberalitie, and Perseuerance, to the earles, lords, and barons that were sewers.

Presently after the returning of the chariot entered a most sumptuous, artificiall, and well proportioned ship; the length of her keele was 18 foot, and her bredth 8 foote: from her bottome to her highest flagge was 40 foote: the sea shee stood vpon was 24 foot long, with bredth conuenient: her motion was so artificially deuised within here self, that none could perceiue what brought her in. The sea vnder her was liuely counterfeit, with all colours: on her foresterne was placed *Neptunus*, hauing in his hand his trident, and on his head a crowne: his apparell was all of Indian cloth of siluer and silke, which bare this inscription, *Iunxi atque reduxi*, which in sence importeth, that as he ioynd them, so he reduced their maiesties.

Then Thetis with her mace, goddessse of the sea, with this deuise, *Nunquam abero et tutum semper te littore sistam*, which signifieth, that by hir presence shee alwaies shall be carefull to bring them into a safe shore and harborow.

Then Triton, with his wilke trumpet, was next to her, with this deuise, *Velis, votis, ventis*, By sailes, by vowes, by windes.

Round about the ship were all the marine people, as Syrenes (aboue the middle as women, and vnder as fishes), and these were Parthenope, Ligea, and Leucosia, who accomodating their gestures to the voice of the musitions, repeated this verse, *Vnus eris nobis cantandus semper*

in orbe. And all the same was decored with the riches of the seas, as pearles, coralls, shelles, and mettals, verie rare and excellent.

The bulke of this ship was curiously painted, and her galleries; wherevpon stood the most part of the banket in christalline glasse, gilt with gold and azure. Her mastes were redde; her takling and cordage was silke of the same colour, with golden pulleis. Her ordinance was 36 peeces of brasse, brauely mounted; and her anchors siluer-gilte. And all her sayles were double of white taffata. And in her fore-sayle a shippe compasse, regarding the north starre, with this sentence, *Quascunque per vndas.* Which is to say, through whatsoeuer seas or waues the kings maiestie intendeth his course, and proiect of any arrising action, Neptune, as god of the sea, shall be fauourable to his proceedings.

On the main saile was painted the armories of Scotland and Denmark, with this deuice, competent in the person of the Prince of Scotland, *En quæ diuisa beatos efficiunt, collecta tenes.* That is to say, Behold (O Prince) what doth make these kingdomes severally blessed, iointly (O Prince of hope) thou holdes, and hast together.

Her tops were all armed with taffataes of his maiesties colours, gold and iewels, and all her flagges and streamers sutable to the same.

Her marriners were in number six, apparrelled all in chaungeable Spanish taffataes, and her pilote in cloth of gold. He alone stood at the helm, who only moued and gouerned the whole frame, both the ship and her burden, very artificially.

The musitions within the same were 14, all apparrelled in taffataes of his maiesties colours, besides Arion with his harpe.

Being thus prepared, at the sounde of trumpets she ap-

proached, and at the next sounde of Tritons wilke trumpet, together with the masters whistle, she made sayle till shee came to the table, discharging the ordinance in her sterne by the way : But because this deuise carried some morall meaning with it, it shall not be impertinent to this purpose to discouer what is meant and propyned thereby.

The kings maiestie hauing vndertaken in such a desperate time to saile to Norway, and, like a new Iason, to bring his queene, our gracious lady, to this kingdome, being detained and stopped by the conspiracies of witches and such devilish dragons, thought it very meet to follow forth this his own inuention, that as *Neptunus* (speaking poetically, and by such fictions as the like interludes and actions are accustomed to be decored withall) ioyned the king to the queene.

So after this coniunction, hee brought their maiesties as happily hither : and now at this her blessed deliuey did bring such things as the sea affoords, to decore this festiual time with all : which immediatly were deliuered to the sewers forth of the galleries of this ship, out of cristaline glasse, very curiously painted with gold and azure, all sorts of fishes ; as hearings, whittings, flocks, oysters, buckies, lampets, partans, lapstars, crabs, spout-fish, clammes ; with other infinite thing made of suger, and most liuely represented in their owne shape. And whilst the ship was vnloading, Arion sitting vpon the galey nose, which resembled the form of a dolphine fish, played vpon his harpe : then begane her musick in greene holyne how-boyes in fine parts. After that followed viols with voices in plaine counterpoint, to the nature of these hexameter verses.

Vndique conueniant, quot Reges nomine Christi
Gaudent, hucque suas maturent cogere vires.
Viribus hos, O Rex, opibusque ante iveris omnes

Quisque suam iam posse velit tibi cedere sortem.
 Regna, viros, aurum, quæ te fecere potentem.
 Omnia coniugij decorant hæc pignora chari :
 ANNA precor fœlix multos feliciter annos,
 Viue, resume nouas, atque annuus anni
 Lustar eat, redeatque ; nouo tibi partus ab ortu.
 Cresce Puer, sacri mens numinis imbibar imbres,
 Semper vterque parens de te nova gaudia captet.
 Scotia, quæ quondam multis tenebrosa vocata est
 Lumina magna nitent in te superantia cœlum,
 Lux Verbi, et Rex, et Princeps diademata Regni.

After which ensued a stil noise of recoders and fluts ; and for the fourth, a general consort of the best instruments.

So this enterlude drawing neare to an end, in the very last courses was discovered this sentence likewise, *Submissus adorat oceanus*, inferring, that the occean sea, by offering the shapes of her treasure, humbly adored and honoured the sitters. And when in this time all the banket was done, after thanks being giuen, there was sung with most delicate dulce voices, and sweet harmonie in 7 partes, the 128 psalm, with 14 voyces. And that being done, at the sound of Tritons wilke trumpet, and the pilottes whistle, she wayed anchor, made saile, and with noise of howboyes and trumpets retyred, and then discharged the rest of her ordinance, to the great admiration of the beholders.

After all which pastime and sport, with merrie and joyfull repast, the king and queenes maiesties, after their offices of honour and respect, place being prepared for the reuels, and the persons appointed for the same, discharging themselves sufficiently. Their maiesties and ambassadors went to an other hall, most richly and magnificently hung with rich tapistrie, where for the collation a most rare, sumptuous, and prince-like desart was pre-

pared ; which being ended, after taking leaue and good-nights, they departed about three of the clock in the morning to their nights rest.

The dayes ensuing, so long as leisur might serue, was bestowed by the ambassadours in banketting of noblemen and gentlemen of their acquaintance ; and the king in the mean time was solícite and carefull of honourable and magnífike rewards, to be bestowed on either of them, which was also princely performed, to their great contentments.

And as they were come to Edinburgh, they were all banketted at sometime seuerally, and at other times together, by diuers noblemen of Scotland, with great honour : Last of all, one ambassadour banketted an other, for commemoration of that ioyfull meeting and good successe.

Then the king and queenes maiesties came to Edinburgh, where they were inuited by the ambassadours of Denmarke vnto a banquet within their ship, which lay at anchor in the riuer of Forth : She was so great, that she could not enter the harborow.

The banquet was very sumptuous, and the ambassadours so ioyous of their finall dispatch, behaued themselues to their maiesties on a kindly manner, according to the ordinary custome of their countrey, by propining of drink vnto them in the name of their princes, which was louingly accepted and requited : In commemoration whereof, the whole artillery of that great vessel were shot in great number.

The three great ships of the estates, lying in the same road neare by, made correspondance and resonance to the number of six score great shot ; and thus concluded their *Bein ale*.

Then the Castle of Edinburgh, for performance of the

kings honour, as they perceiued the ships to lose, and to hoise vp saile: The captain of the castle saluted euery ship, as they shewed themselues in readines by order, with a number of great cannon shot. And so I conclude.

END OF VOLUME FIRST.

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